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Pentateuchal Studies

BY

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"THE ORIGIN OF THE PENTATEUCH," "ESSAYS IN PENTATEUCHAL CRITICISM," ETC.

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To

The Reverend Professor G. Frederick Wright, D.D., LL.D.

in gratitude for constant help and friendship

PREFACE

This book is a sequel to my "Essays in Pentateuchal Criticism." Of the studies it contains, Nos. 16 and 17 appeared in the *Princeton Theological Review* for 1907, the majority are reprinted from the *Bibliotheca Sacra,* while No. 23 was read before the Victoria Institute and has already been published in the Journal of its Transactions. My best thanks are due to the editors of the two periodicals and to the Council of the Institute for the kind permission to include the various contributions in the present volume. I am also indebted to Drs. Driver and Gordon for leave to republish their letters.

A large group of these studies is concerned with the textual criticism of the Divine appellations in Genesis, and the larger question of which it forms part, the textual criticism of the Pentateuch. In order that the position with regard to these may be properly appreciated, some words of introduction are necessary.

In the year 1753 Astruc published the little book in which was first propounded the theory that a division of Genesis into earlier documents might be effected on the basis of the alternation of the Divine appellations aided by other criteria. This became the starting-point of the work that, in the course of the last one hundred and sixty years, has given us the present documentary theory of the Pentateuch, which at the beginning of the year 1908 was held by almost every Hebrew professor of note in the Protestant universities of Northern Europe and America. The alternation of the Divine appellations was regarded as so important and so certain a basis for the Pentateuchal analysis, that, e.g., Dr. Driver, in the

eighth edition of his "Introduction to the Literature of the Old Testament" (p. 21), reprints a passage from the earlier editions in which he balances the cumulative evidence of all the other criteria throughout the entire Pentateuch against the occurrence of the Tetragrammaton in two passages of P in the Massoretic text of Genesis, being obviously unable to conceive a P that used the Tetragrammaton in Genesis. It would be easy to cite numerous dicta from other leading critics to the same effect. Indeed, the three main documents that were supposed to be represented in Genesis (J, E, and P) all owed their very names to the clue, P having long been called the (first) Elohist. The theory was regarded as invulnerable, and is still so treated in many new popular books.

Nevertheless, a point of view was possible from which it is seen to be utterly untenable, and a number of writers have reached it independently. In the year 1903 J. Lepsius printed a series of articles in the *Reich Christi* in which he drew attention to the fact that the LXX does not always confirm the received Hebrew (Massoretic) text of Genesis in regard to the Divine appellations; in the same year J. Dahse published an independent study in the *Archiv für Religionswissenschaft;* and in 1904 a paper from the pen of H. A. Redpath appeared in the *American Journal of Theology*. At the time these studies, which were quite independent of one another and drew different inferences from the facts, were not much noticed, though Dahse's article has influenced some Roman Catholic scholars; but in 1908 J. Wellhausen, the leader of the documentary theorists, admitted to Dahse that he had put his finger on a sore point of the theory, and has now given permission for this statement to be published. While they differed among themselves on other matters, all three writers were at one in opposing the theory, and none of the

three at that time extended the application of scientific textual criticism to the other supposed criteria, though Lepsius made a number of arbitrary changes in the text.

The matter attracted fresh attention in 1908, when Eerdmans, Kuenen's pupil and successor in the Leyden chair, published the first part of his "Alttestamentliche Studien." Therein he severed his connection with the documentary theory which he had previously supported. He mentioned the existence of Septuagintal variants, and placed some reliance on the argument, but he showed acquaintance with only a small portion of the existing variants, and contributed no adequate discussion even of these. It is of course true that the oldest existing MS. of the LXX is many centuries earlier than any Hebrew MS. of Genesis, but that fact is not sufficient by itself to establish the importance or legitimacy of the textual method.

The present writer's attention was first drawn to the subject by a notice of Dr. Redpath's paper, and in January, 1909, he published in the *Bibliotheca Sacra* an article which has since been incorporated in the first chapter of "Essays in Pentateuchal Criticism." This led to a discussion in the *Expository Times* and elsewhere, and, in the issue, a large measure of support has been secured among conservative scholars in England and America for the application of textual criticism to the Divine appellations, Lias, Wright, Tisdall, Kyle, Reeve, Griffith Thomas, and Griffiths having all given in their adhesion. Meanwhile Professor Schlögl (who had been working at the subject independently) had adopted the method in Austria, and he has been followed by Professor Weiss in the same country. In Holland Dr. Troelstra has recently given it the weight of his support in "De Naam Gods in den Pentateuch," which is shortly to appear in Eng-

lish dress, and in other publications and lectures. There are thus a rapidly increasing number of scholars in different countries who have come to the conclusion that the methods of the last one hundred and sixty years are indefensible, and the results attained by their adoption worthless.

So much for those who either had never been publicly committed to the documentary theory, or else had found reason to reverse their attitude. What has been the answer of the followers of Astruc? Nobody has been found to produce a reply to the facts and arguments alleged, but when they have had occasion to express themselves in public, the official adherents of the school have adopted one or other of four courses, each and all of which indicate that they are unable to defend their theory against the attacks of the textual critics.

The first course is that of frankly admitting that the theory is in danger. Naturally the exact wording of the admissions varies with each individual. As already stated, Wellhausen himself has written to Dahse describing the textual evidence regarding the Divine appellations as a "sore point" (*wunder Punkt*) of the theory. Professor E. Sellin, of Rostock, whose mind has been influenced by other considerations as well, goes so far as to say: "It will be seen that we stand in a time of fermentation and transition, and in what follows we present our own opinion merely as the hypothesis that seems to us to be the best founded." Similarly Professors Toy and H. P. Smith, who had suffered for their belief in the higher criticism when they thought it true, have now made the important admissions that are cited on pages 132 f. To realize what a change this implies, the words that Professor W. Robertson Smith wrote in 1889 should be recalled: "The first conditions of an effective comparison of Hebrew religion, as a whole, with the religion of the other

Semites, were lacking so long as the historical order of the Old Testament documents, and especially of the documents of which the Pentateuch is made up, was unascertained or wrongly apprehended; but thanks to the labours of a series of scholars (of whom it is sufficient to name Kuenen and Wellhausen, as the men whose acumen and research have carried this enquiry to a point where nothing of vital importance for the historical study of the Old Testament religion still remains uncertain)," etc. (Religion of the Semites, preface). To-day Wellhausen is shaken. Teaching that is subversive of the whole theory is given at Kuenen's old university, and the most candid minds among its supporters realize that a reëxamination of the whole textual and historical field is essential.

Unhappily, few of the higher critics are as candid as those just cited, and hence it becomes necessary to note other attitudes. The second main line of conduct is to ignore the facts and arguments altogether, simply repeating the old exploded theories, and striving to keep the public in ignorance of the results of recent research. This has been followed, e.g., by Mr. W. E. Addis, who contributed to the *Review of Theology and Philosophy* a notice of my "Essays" that proceeded on these lines. As evidence of inability to meet the conservative case, this is of course second only to a direct admission.

A third method — that of Professor Barton and others — is exemplified in the second of these studies. It consists of sneering about faith. It is said that Wellhausen once compared his own teaching with that of some of his followers in the words, "I knew the Old Testament was a fraud, but I never dreamt, as these Scotch fellows do, of making God a party to the fraud." Now the view of textual criticism is that the Old Testament is not a fraud, but has undergone

the ordinary vicissitudes of a MS. tradition, and must be subjected to the same scientific processes as all other writings that have passed through a similar experience. In view of what is said on pages 13–18, it is unnecessary to deal further with the question of faith; but the method of sneering betrays not less clearly than the other methods the inability of the documentary theorists to answer the textual case.

The fourth method is the most regrettable of all. It consists of the deliberate misrepresentation of facts, and is practised by Doctors Skinner, Briggs, and Driver. Numbers 8–11 of this series (which should be read consecutively) are concerned with it, and the reader who will be at the pains of studying these carefully and impartially will inevitably reach the conclusion that not one of these men is a whit better able to meet the case set up than Wellhausen himself. Accusations of direct deceit are not to be made lightly; but when they become necessary they should be made so plainly that no doubt can be possible as to the issues raised. Every impartial and clear-headed man of the world will be able to see that No. 11 must have been immediately followed by proceedings for libel if any one of the three men concerned had been in a position to vindicate his honor in the witness-box without committing direct perjury, and a perusal of No. 10 will help to show how impossible this was. Beyond all doubt Astruc's theory is *in extremis* when it has to be buttressed by the means here revealed.

It may, however, be asked how far the establishment of the textual method will go towards the annihilation of the dominant theories. The answer must be dictated by a number of different considerations. There are, as already stated, numerous admissions in the work of influential critical writers as to the importance of the Divine appellations. Attempts may

now be made to belittle this clue, but every reader of any critical analysis of Genesis knows that it is repeatedly invoked to effect a division. Moreover, it is impossible to apply textual criticism to the Divine appellations and yet to refuse to apply it throughout the Pentateuch. Nobody can say, "Here is an old document: I will treat some 340 words of it in the same way as I should any other ancient document, but I will not extend this treatment to any other word of it." Either the received Hebrew text must be accepted through thick and thin, or a scientific critical text must be constructed throughout. A number of instances of what is likely to happen in the latter case are to be found in these Studies. I understand from Dahse, who has been working at the story of Joseph and the passages treated by me as glosses in No. 8, that he has reached independently results that are practically identical with mine. His full discussion will appear in "Textkritische Materialien zur Hexateuchfrage I.," which is now in the press and will probably be published at about the same time as the present volume. The range of agreement between us appears to be extensive, but, at the time of writing, complete proofs are not available. I have, however, seen the first 112 pages, and am able to say that the work will prove to be one of the most important contributions to the criticism of the Pentateuch that have come from Germany for many years. The instalment now in the press is limited to Genesis, and will presumably, therefore, not treat of many matters outside it. On the other hand, I am glad to observe that Cornill (Zur Einleitung in das Alte Testament (1912), p. 22) has now independently taken the view of the text of Ezekiel xxxvii. 22 and 24 which is set out on page 162.

While the textual criticism of the Pentateuch looms large in the present volume, a number of studies are also concerned

with various phases of its historical interpretation, especially with the Graf-Wellhausen theory of the history. And here the plight of the higher critical school is seen to be not less desperate. In my "Essays" and elsewhere I have shown that the reconstruction of the history of Israel rests primarily on the inability of Wellhausen and his followers to distinguish between a cairn and a house once they had applied the term "sanctuary" to each of these separate and dissimilar objects. Apparently I have so far influenced Dr. Driver that, in his note on Exodus xxi. 6 (see *infra,* p. 148), he expressly points out that the door cannot be that of the "sanctuary" and goes on to call this view "out of the question" — I suppose because he has at last realized that dubbing a stone or mound a "sanctuary" will not give it a door. The letter of December 7, 1911, on page 150 appears to hold to this, but on May 1, 1912, he wrote a Foreword commending Dr. McNeile's volume on "Deuteronomy: Its Place in Revelation." In this book the interpretation that is "out of the question" is put forward as unquestionable for the benefit of "those who are unacquainted with Hebrew or who lack the time or opportunity to study commentaries" (including presumably Dr. Driver's own commentary on Exodus). It will be seen that when a writer of Dr. Driver's standing is reduced to arguing (*infra,* pp. 150 f.) that he does not believe the only explanations he puts before his readers, and subsequently to commending views that he regards as "out of the question," the end is not far off.

In other directions a sounder view of the history of Israel is undoubtedly making progress. A perusal of the last volume published by Professor Eerdmans (Das Buch Leviticus) reveals the gratifying fact that he has independently reached many of the conclusions set out in No. 20, and it may be

hoped that further study will reduce the differences between us. Moreover, a new tendency to give a hearing to the views of conservative scholars is becoming evident in many quarters where the critical theories were formerly accepted as unquestionable. It is now certain that the documentary and evolutionary theories are mortally wounded.

I cannot close this preface without a word of gratitude for the services rendered to the conservative case by Dr. G. Frederick Wright, to whom this book is dedicated. But for his courage and steadfastness of purpose against all odds throughout many years when the outlook must have seemed nearly hopeless, conservatism would not now occupy its present favorable position.

Harold M. Wiener.

9 Old Square,
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11 September 1912.

CONTENTS

		PAGE
	PREFACE	v
I.	SOME ASPECTS OF THE CONSERVATIVE TASK IN PENTATEUCHAL CRITICISM (I)	1
II.	TEXTUAL CRITICISM, HISTORY, AND FAITH	13
III.	THE DATING OF GENESIS XXII.	19
IV.	THE AGE OF ISAAC	22
V.	THE POST-MOSAICA OF GENESIS	26
VI.	THE ANSWER OF TEXTUAL CRITICISM TO THE HIGHER CRITICISM OF THE STORY OF JOSEPH (I)	29
VII.	THE ANSWER OF TEXTUAL CRITICISM TO THE HIGHER CRITICISM OF THE STORY OF JOSEPH (II)	39
VIII.	THE SWANSONG OF THE WELLHAUSEN SCHOOL	49
IX.	THE HIGHER CRITICAL QUANDARY (I): A CORRESPONDENCE WITH DRS. BRIGGS AND DRIVER	90
X.	THE HIGHER CRITICAL QUANDARY (II): A CORRESPONDENCE WITH DR. GORDON	114
XI.	SOME ASPECTS OF THE CONSERVATIVE TASK IN PENTATEUCHAL CRITICISM (II)	124
XII.	DR. DRIVER ON EXODUS	143
XIII.	THE NEGEB IN EXODUS	152
XIV.	THE "KING" OF DEUTERONOMY XVII. 14–20	157
XV.	DEUTERONOMY XXXIII. 4: "MOSES COMMANDED US A LAW"	169
XVI.	THE LAWS OF DEUTERONOMY AND THE ARGUMENTS FROM SILENCE	170
XVII.	DEUTERONOMY AND THE ARGUMENT FROM STYLE	195
XVIII.	THE ALTAR OF JOSHUA XXII	225
XIX.	THE "PRIESTS" OF EXODUS XIX	230

PAGE

XX. Priests and Levites: The Fourth Chapter of Wellhausen's Prolegomena 231

Priests and Levites in the Priestly Code 233
Priests and Levites in the Other Portions of the Pentateuch 248
Priests and Levites from Moses to Malachi 257
Ezekiel 277
Conclusion 281

XXI. The High Priest 287

XXII. The Fifth Chapter of Wellhausen's Prolegomena 290

XXIII. The Legislations of Israel and Babylonia 306

Index I. (Texts) 339

Index II. (Subjects) 347

Pentateuchal Studies

I

SOME ASPECTS OF THE CONSERVATIVE TASK IN PENTATEUCHAL CRITICISM (I)

[From the *Bibliotheca Sacra*, January, 1911.]

The necessity for meeting a large number of detailed arguments in the course of the great critical controversy as to the origin of the Pentateuch cannot be held to afford any justification for neglecting to take some general view of the task that confronts those who hold conservative opinions. Indeed, reflection shows rather that the efforts which have to be made for the purpose of grappling with individual difficulties must never be dissevered from the general principles by the aid of which alone success can be obtained: and the circumstance that many conservatives devote their labors to processes which are scarcely likely to prove more profitable than plowing the sands tends to emphasize the desirability of considering the lines along which our work should proceed.

It is a condition precedent of all conservative work that the conservative writer should know the higher critical case a great deal better than any critic does. That may sound paradoxical and difficult: it is really the simplest thing in the world. For the conservative must know not merely the strength of the critical case, but also its weaknesses; and these appear never even to be suspected by the critics. But unless he knows the critical case thoroughly, knows it in its seeming strength, he will never be able to detect its weaknesses.

He must be perfectly acquainted with the arguments he is to refute if he is to have any chance of showing others exactly where they go off the rails.

Another matter to be borne in mind is that a style of apologetics at present much in vogue is much more likely to damage our position than to improve it. I refer to the too frequent efforts to disprove the higher critical case by citing against one another the divergent opinions of different writers. "Here is a problem: Professor A says the solution is X, Professor B that it is Y: therefore there is no problem." Stated in this way, the logic is a trifle weak: but unfortunately it will be found far too frequently on our side. No doubt in many cases something that presents no difficulties has been magnified into a problem; but in others there is a genuine question to be faced and answered, and in such cases this style of apologetics is worse than useless. The apologist may insist as he will: he may produce the most plausible of arguments: but the first time the student is confronted with the bed-rock difficulty in the text the conservative arguments will vanish into thin air and the solution of either Professor A or Professor B will make a fresh convert. The true method is to show that the solution of the problem is neither X nor Y, but Z: and then there is a probability that every fresh student who has to consider this text and the explanations suggested will be inclined towards the conservative case — finding that here at any rate none of the critical theories will hold water, while conservatism can remove the difficulty. The truth will ultimately stand by its own inherent strength and not through the divisions of its opponents. Our task is, above all things, constructive.

But here perhaps somebody may interpose with two objections. In the first place, it may be said that it is notoriously

extremely difficult to get any critic to read conservative work. That is unfortunately true; but there are two answers. There exists a large body of men who are not professional critics though they have been influenced (and in some cases trained) by those who are: and many of these while regarding the critical position as probably correct are quite willing to listen to argument. The opinions of these men must in time react on the critics themselves. The second answer is, that even in the case of the most inveterate critics steady persistence is apt in the long run to have its usual effect and to compel reluctant attention. For these reasons the conservatives should not allow themselves to be daunted, but should work away steadily until in the slow but inevitable course of events their arguments win recognition.

Then there is another great objection. When the critical case has been demolished, the critics will still continue to believe and teach it. This may sound far-fetched: actual experience of the critics has, however, convinced me that it is only too true.

> 'A man convinced against his will
> Is of the same opinion still.'

In such cases the critics should, where possible, be induced to publish their revised views in the full confidence that these will have on their readers the effect that conservatives desire. An eminent critic on receiving the article in the Bibliotheca Sacra for January, 1909,[1] wrote to me, saying in effect that he was too prejudiced to be affected in his views by the textual uncertainty of the Divine appellations in Genesis. Nothing would serve our purpose better than that he should publish something on those lines and expound it carefully to his pupils. "This theory was framed to account for certain

[1] Essays in Pentateuchal Criticism, pp. 4–56.

facts: those facts are now displaced: but, as I am prejudiced, I say that the theory is true in spite of all facts to the contrary." [1] I myself have had too much experience of corresponding with higher critics, and have found them too unable to answer my points, to have any doubt of the unsoundness of their position; and, that being so, the work of getting our arguments grasped may take time, but must ultimately succeed.

A minor difficulty lies in the tendency of the critics to regard every point made by the conservatives as a "detail." The higher critical case is of course made up of a mass of details; but, of these, some (as, for instance, Astruc's clue, and the blunders made by Wellhausen as the result of his inability to discriminate between a house and an altar) possess greater importance than others. It is amusing to see how in the eyes of higher critics on the defensive, that which but yesterday was a cardinal point in their case suddenly shrinks to a detail. But what is less amusing is the obvious reluctance to consider the ramifications of the "detail," and frankly to jettison arguments and hypotheses that have become untenable. We have still to discover the higher critic who, on finding reason to believe that his opponents have scored a point, will have the courage to look into the matter in all its bearings and then tell the public: "Such and such a position has become untenable, and we are shown to have been wrong on this point: our theory therefore requires such and such modifications." In dealing with this characteristic, as with others, the conservatives have no choice but to continue working away persistently until they wear down the critical prejudices.

[1] Since the above was written, Professor Steuernagel has found himself compelled to argue that the documentary theory would stand, even if all the discrepancies in the Pentateuch failed (Theologische Literaturzeitung, October 15, 1910). It is greatly to our advantage that the critics should be driven into such positions.

Subject to these remarks, the critical arguments mostly fall under a few heads for conservative purposes, and I propose shortly to examine some of these.

1. First, then, it will be found that the critics habitually use a large number of arguments which when investigated do nothing whatever to support their case and are at least equally compatible with the conservative position. I have often given examples of this. Take, for instance, the argument from style as applied to the legislation. Owing to the narrowness of their reading, the critics do not know that, in antiquity, style varied according to subject-matter.[1] I once discussed this matter with an eminent critic, pointing out to him that in classical studies men had come to recognize how different the use of style was in the ancient world to that in the modern. He said: "We are much further advanced than the classical philologists." The day before he had told me that he read nothing outside his own subject! Certainly that must have made it much easier for him to reach this notable conclusion.

Many of the arguments urged as to the early chapters of Genesis fall in this category. As I have frequently pointed out, there are certainly passages that are much older than the time of Moses. Genesis x. 19, with its reference to Sodom and Gomorrah and Admah and Zeboiim as still existing, is a familiar instance which anybody can appreciate without technical training. (In fact I may remark in passing, that I often find it useful to begin with this point when discussing any of these matters with a partisan of the higher critics, just because it is so easily and rapidly apprehended.) But if once pre-Mosaic sources be admitted in Genesis, very many of the higher critical arguments become valueless, for large sections of the data may be most naturally explained by this hypothe-

[1] See *infra*, No. 17, "Deuteronomy and the Argument from Style."

sis. If a critic seeks to reply that the phenomena that characterize the supposed sources of Genesis continue thereafter, it is easy to rejoin by pointing out to him that as the author of x. 19 could not have written an account of, say, the Mosaic age, there must be something very wrong indeed with the critical methods which led them to assign this to a late stratum of J, i.e. to a hypothetical writer who is supposed to have flourished at least a thousand years after the latest date at which this passage could have been composed.

2. A second great division of the critical arguments is furnished by difficulties that depend on the state of the text. The Pentateuch is a book that has been handed down to us through a great number of centuries. Whatever care may have been exercised in the process, it is inevitable that errors should have crept into the text, for the transmission has been accomplished by human means, and no man is infallible. Now we in fact know from ancient Versions and other sources that the received Hebrew Bible represents only one recension of the original; and in many places that recension is for one reason or another clearly wrong. There are passages that violate the ordinary rules of grammar, passages from which no sense can be extracted, passages that can indeed be translated and will give some sense from which however no satisfactory meaning can be elicited.[1] In such cases we may be sure the text has suffered. But there are instances in which what are obviously mere textual corruptions have been exploited by the higher critics for the purposes of their theory. In such cases it is the duty of conservatives to devote themselves to textual criticism and show on what the critical arguments are really founded. It is a great pity that this form of

[1] E.g. the statement that Saul was one year old when he began to reign.

criticism has been so largely neglected. An illustration of this that seems to me to be at once significant and unfortunate is the fact that originally no volume on the Text of the Old Testament appears to have been thought necessary to the completeness of Messrs. T. and T. Clark's International Theological Library. Articles in Bible dictionaries and sections in the introductions to special commentaries form very insufficient substitutes for a really comprehensive treatise on this important subject, and it is therefore gratifying to note that it is now intended to add such a volume to the series.

3. A third great division of critical difficulties is constituted by certain matters which require for their elucidation expert knowledge that the critics lack. I have repeatedly illustrated this and do not propose to labor the point now. Here it must be the duty of conservatives to endeavor to raise critical knowledge to a higher level.

4. Closely connected with this last division is another — the difficulties that are due to our insufficient knowledge of the history of the Mosaic and preceding ages. These difficulties are being reduced by archæology. But probably the most striking illustrations of the benefits conferred by this science are to be found in the effect that it is having on various hare-brained theories. It must be remembered that there have been important instances of breaches with the established Wellhausen school of late years. One example is provided by Kuenen's successor, Eerdmans, who is under the influence of archæological material. In a different direction the same may be said of Professor Bruno Baentsch and those who are following him. Professor Baentsch came to the conclusion, from the archæological material, that it was incorrect to argue for a late date for Monotheism. A more recent German higher critical work is Dr. A. F. Puukko's "Das Deuteronomium."

His verdict is as follows: "I am decidedly of the opinion that the old Israelitish tradition which ascribes the Decalogue to Moses is credible, and does not stand in irreconcilable contradiction with any historical facts" (pp. 44 f.). He means a simpler form of the Decalogue than that in the text of Exodus, but that such a form should be Mosaic — perhaps even preserved in writing — is a view that he has adopted as the result of archæological evidence. Thus he writes, in a note on page 43: "After the discovery of the stele of the Code of Hammurabi and the Tel-el-Amarna finds this hypothesis contains nothing unreasonable." The same influence showed itself in the article contributed by Dr. C. F. Burney to the *Journal of Theological Studies* for 1908. Professor Sellin, in his new "Introduction to the Old Testament," advances further along the conservative path. It is true that the theories that are now being abandoned never had the slightest probative force behind them: but they were the fashion with a certain school of writers, and it is therefore well that the successors of these writers should have to abandon them explicitly. So too the discovery of early tablets showing that Abraham was in fact a personal name is not grateful to those who wish to see in him a moon god.

In this connection the following note (which will be found on p. 392 of the sixth German edition of Wellhausen's Prolegomena) may cause some amusement: "I believe that the present legislation in Exod. xxi. xxii. is at bottom Canaanitish, i.e. pre-Israelite. The laws of Hammurabi are better redacted, yet as far from being artificial as those of Exodus xxi. f.; they may also be of great antiquity. But it does not follow from the fact that they are attributed to Hammurabi that they come from him. In view of experiences elsewhere this conclusion of the Assyriologists is not actually necessary.

A priori the converse is more probable." Comment would spoil the pure joy of this note.

5. A fifth great head of points that press the critics requires very different treatment — I refer to the difficulties that are purely imaginary.

Nothing is commoner than for a higher critic to misunderstand a text or lay down some preposterous canon to which history or literature is expected to conform, and then to erect a theory on such a basis. Sensible men rarely attach much importance to these sections of the higher critical case, and we need not linger on the subject, because Professor Toy, one of the most eminent of the American critics, has recently used very clear language in this connection. He writes quite frankly: "I do not pretend to defend all the arguments and conclusions of recent works on the Pentateuch. They sometimes disagree among themselves, and sometimes press analysis too far and make difficulties where there are none." [1]

It will, I think, be found that many of the critical arguments can be grouped under one or other of the foregoing heads. To my mind the work of disposing of them constitutes by far the more important department of the conservative task. The great fundamental improbabilities — religious, moral, historical, literary — of the higher critical case are so grave and so obvious that the majority of students who are not rationalists will necessarily incline towards conservatism if it be made at all possible for them, and that depends mainly on the line we take towards the arguments on which the critics rely.

At the same time it must be remembered that conservatism is in a position to put forward a positive constructive case of

[1] The Christian Register, April 28, 1910.

its own. There are passages which to any unbiased mind prove date with sufficient certainty. In this connection the following admissions are of interest: "It will thus be seen that we have here a very vivid and true picture of Egyptian life; and, in particular, of the life of the lower orders" (Gray, Numbers, p. 104, on Num. xi. 5); "The description is drawn from life, corresponding accurately to modern observation in its various details — the great multitude of the birds, their use of wind in their migration, the lowness of their flight, the ease with which when weary they are netted" (*op. cit.*, p. 117, of the quails, Num. xi. 31–33).

Such traits cannot be without their weight for any estimate of authorship and date.

Or take the priestly legislation. Omitting technical points, its date is still clearly written on its face. After the exile the Ark was no longer in existence: yet this legislation gives careful directions for its construction. That may seem somewhat belated, though the critics think nothing of it. But the mere construction is a bagatelle. Our legislator thinks it necessary to provide for the suitable housing of this Ark at a period many centuries before his time. Accordingly he forges most elaborate Divine ordinances for the construction of a tabernacle — again to meet the needs of an epoch that had long since elapsed. Next he sets apart a whole tribe to transport the national Ark and Sanctuary and gives most minute instructions as to the details of their conveyance. That, of course, is the most striking illustration in point of length. It is by no means the only one. Laws relating to booty and conquests (Num. xxxi., xxxiii.) are singularly out of place in the circumstances of the exilic and Ezran periods. I have repeatedly pointed to the irreconcilable conflict between Num. xxxi. 18, permitting unions with Midianitish women,

and the attitude of the religious leaders at this epoch. The system of tribes with separate tribal lots was as dead as the dodo, yet the injury that might accrue to them from the laws of inheritance forms the subject of anxious consideration and legislation (Num. xxxvi.). Of those laws of inheritance themselves I have written in "Studies in Biblical Law," and elsewhere.[1]

Another branch of the conservative argument will be provided by the historical evolution that can be traced in the laws when the conservative dating is retained. That evolution is in accordance with the course of history observed in other societies. In such subjects as family, inheritance, homicide, covenant customs, theft, our information enables us to trace growth and change with more or less fullness.[2]

Increased attention must be given to the structure of the Pentateuch and the proofs of its substantial unity. It is almost fashionable now even for critics to recognize a measure of unity in Genesis. It will soon be possible to force them to admit the essential unity of the great bulk of Deuteronomy. Then will follow the testimony of Deuteronomy to certain portions of the earlier books and the evidences of unity in at any rate the bulk of "P's" narrative and the whole of the legislation. Many important consequences will flow from the recognition of the fact that in the Pentateuchal legislation we have the laws of Moses, subject only to textual criticism, in the language of Moses.

[1] Other arguments of the same kind will be found in Essays in Pentateuchal Criticism, The Origin of the Pentateuch, and *infra*, No. 20, "Priests and Levites"; also in Dr. Orr's Problem of the Old Testament.

[2] See the articles on "Law in Old Testament," "Family and Inheritance," "Crimes," "Wrongs and Punishments," "Homicide," "Witness," in Murray's Illustrated Bible Dictionary, and the literature there referred to.

Many other important lines of argument will be found in Dr. Orr's "Problem of the Old Testament." This article is purposely limited to a few aspects of the subject, for a treatise might be written in the attempt to deal with it exhaustively. Yet it has seemed in place to sketch roughly some of the lines on which we must work, in the hope that even such a hasty sketch might prove conducive to clear thinking on some points of cardinal importance.

II

TEXTUAL CRITICISM, HISTORY, AND FAITH

[From the *Bibliotheca Sacra*, April, 1910.]

I HAVE been asked to write a note on the bearing of the textual criticism of the Pentateuch on History and Faith. The immediate occasion for the request was the publication of a footnote in the *Journal of Biblical Literature;* and, as the genesis of that footnote seems likely to be typical of the origin of other publications, it is worth while to examine into it. It appears, from the record of the Proceedings of the Society of Biblical Literature and Exegesis for December, 1908, that on Thursday, December 31, in that year — importance attaches to the date — Professor George A. Barton read a paper entitled "Abraham and Archæology." This was written in the usual strain of the Wellhausen critics, with many references to J^1 and J^2, E and P. The paper contains no internal evidence that its author had ever read or considered the publications of Dahse and Eerdmans, and proceeds on the assumption that all is for the best with the best of all possible critical theories. Unfortunately the Bibliotheca Sacra for the very next month (January, 1909) contained my article on "the clue to the documents" to which the Wellhausenites have so far been unable to offer any reply, and the professor found his position changed. On the one hand his paper — as well as his earlier publications — committed him irretrievably to this hapless theory; on the other, apparently neither he nor any member of his school had any inclination to tackle my facts and arguments. Public demonstration of this has been afforded by the series of notes that appeared in the *Expository Times*

for May, July, and September, 1909, under the title "The Name of God in Genesis." Anybody who will be at the pains of reading those notes carefully and consecutively will see that the Wellhausen critics cannot possibly reply to the communications of Professor Schlögl and myself, and that their representative, Dr. Skinner, only succeeded in making some show of a case in the May number by putting forward assertions that he has not substantiated under cross-examination. It is therefore an easy task to realize and pity the plight in which Professor Barton found himself, though it is less easy to commend the course he adopted. The paper was printed in the ordinary way in the *Journal of Biblical Literature* for 1909, and on page 166 Professor Barton added the following footnote to a phrase in the text about "the so-called warfare between archæology and criticism":—

> "One of the curious psychological phases of this artificial warfare is manifested in an article by Wiener on 'Pentateuchal Criticism' in the *Bibliotheca Sacra* for January, 1909. This writer argues in substance that the critical analysis rests on an insecure basis, because our sources of knowledge for the text are so late and imperfect that no certain inferences can be drawn from its statements. This argument is apparently published as a defense of faith!"

Professor Barton is mistaken. The article was not published as a defense of faith. It was published for the advancement of truth by men who believe that the impartial and conscientious search for truth conducted with adequate equipment and judgment can never do any harm to Faith. But the points made or implied in the note are obviously two: (1) that no certain inferences can be drawn from the statements of the biblical text; and (2) that the writer's position is antagonistic to faith. It is proposed shortly to deal with these two matters.

How far does textual criticism affect the history? The answer is, Scarcely at all. In ninety-nine cases out of a hundred it makes no difference whatever to the import of a narrative, whether AB be referred to as A or B or AB. In a footnote on page 156 of the impugned article, I was careful to write: "It may also be added that the difficulty of forming an opinion is due to the supreme unimportance of the subject. The difference between the two appellations so seldom makes any appreciable difference to the text that all criteria fail." That really disposes of Professor Barton's point, for his reference was solely to this one article. Nevertheless, it is better to extend the inquiry, and deal more generally with the effects of textual criticism on history. That the removal of glosses cannot have any important effect on the narrative is self-evident. Another department of textual criticism consists of transpositions; and, as the only result of these is to give us the same narrative in a different order, it is clear that the historical effects of this must also be very limited. The most important modification I have ever suggested was the rearrangement of the text of the concluding chapters of Numbers; and, as one of the results of that was to bring a hitherto chaotic collection of episodes into strict accordance with Deuteronomy, the most that can be said against me is that I have substituted one comprehensible account of certain important transactions of the Mosaic Age for two accounts, one of which was intelligible and natural, while the other was not. Other less important transpositions have a very slight bearing on our conception of history. For example, the exact date at which Moses began to take a tent outside the camp or at which the priestly blessing was commanded does not really modify history in any substantial degree. The only other department of textual criticism that affects the narrative is the correction of

corrupt words. Yet the change of one or more letters here and there cannot really alter any important feature of a lengthy relation. We may come to the conclusion that a specified event occurred in the first month instead of the fifth, or that on a given occasion certain persons who stood in a particular place were elders and not priests, or that some transactions took place in a prison and not in the house of a captain of the guard; but there the changes end, and it cannot be contended that alterations of this kind modify our conception of the course of history in any essential respect.

So much for the part of the charge that relates to the narrative. Now for the point as to Faith. The present writer is a Jew, and therefore it is natural for him to consider in the first instance the possible effects on Judaism. It appears to him that there are two overwhelming answers to the suggestion that textual criticism as practised by him could in any wise damage Faith. The first is that all the dissentient MSS. and nearly all the Versions are the work of strictly orthodox Jews. The LXX was a Jewish translation made for the use of the Greek-speaking Jews of Egypt. The Syriac is supposed to have been another Jewish translation. Aquila was a Jew of the most strictly orthodox type — probably a disciple of Rabbi Akiba's. The Targums are Jewish renderings made for official use in the Synagogue. Other variants are supplied by the Talmud and old Jewish commentaries — indeed, by the fountain-heads of Jewish orthodoxy. I see no reason to believe either that the Jews of to-day are much better than their predecessors or that the Bibles of the latter could possibly prejudice our faith. The second reason is even more complete. The task of textual criticism is to recover a more accurate account of the sayings and doings of Moses than is contained in the Massoretic text. The suggestion, therefore, can only be that

a more correct version of the writings of Moses could be injurious to Judaism. Does the professor really think that such a bogey could frighten any educated Jew?

But it may be said that the Faith that is to sustain injury at the present writer's hands is the Christian Faith. It would be an impertinence for one who does not profess that Faith to affect to discuss what is or is not destructive of it. That task can be accomplished satisfactorily only by Christian divines. Yet I may be allowed to do something to adjust the issues for the latter. First, it would seem that they would have to consider the point I have just raised in the case of Judaism — the question whether the *ipsissima verba* of Moses could be destructive of Faith. But, secondly, they will have to consider whether the New Testament is subversive of Christianity, for it is well known that the New Testament writers often quote the Old Testament in the Septuagint and not from the Hebrew text. Thirdly, the question will arise whether those sections of the Christian church which make official use of the LXX are destroying faith. Fourthly, it will be necessary to ask whether the whole of the Roman Catholic Church who use the Vulgate as their Bible are lacking in faith. If and when all these questions have been answered in a sense hostile to the contentions of the present writer, they will doubtless proceed to examine the positions of Professor Barton and other like-minded defenders of Faith. Let us just take an instance of what these are. The following passage is from Mark xii. 26, 27: "And as touching the dead, that they rise: have ye not read in the book of Moses, how in the bush God spake unto him, saying, I am the God of Abraham, and the God of Isaac, and the God of Jacob? He is not the God of the dead, but the God of the living: ye therefore do greatly err." What has the "reverent criticism" of our "defenders" to say to this passage? The

book of Moses was not in fact the book of Moses. God never spoke to him in the bush, or if He did He certainly never spoke the words here cited, which are the composition of somebody who lived centuries later. As to Abraham — whose God these words claim Him to be — he probably was not a person at all. Here I may quote from Professor Barton's article:—

"... These facts do not prove Abraham a moon-god; absolute proof that a character is mythical is even more difficult than to prove it historical. We cannot, however, wonder that, in the absence of proof from contemporary sources that Abraham was a person, such facts had great weight. The discovery from an extra-Biblical source that Abraham was in Babylonia the name of a person, even though that person cannot be identified with the Patriarch, breaks in a slight degree though it by no means nullifies, the weight of these considerations."

"One would, of course, prefer to believe that Abraham was an historical character, but some of the sublimest ideals have been enshrined in story and parable, as well as in historic men, and the ideal is as real and as useful for teaching in one case as in the other."

Thus the critics proceed with one limb of the text after another. This is *believing criticism:* this is what entitles them to sneer at my alleged "defense of faith"!

III

THE DATING OF GENESIS XXII

[From the *Bibliotheca Sacra*, April, 1910.]

One of the oldest critical arguments is furnished by the proverb in Genesis xxii. which appears to refer to the Temple mountain. If so, the chapter could not be earlier than the time of Solomon. This rests on two points — "the land of Moriah" in verse 2, and the wording of the proverb itself in verse 14. Textual criticism disposes of both these points. The word "Moriah" is notoriously corrupt. A land of Moriah is quite unknown, and the ancient authorities all differ from the Massoretic text. The Samaritan has המוראה, the LXX *τὴν ὑψηλήν*, Aquila *τὴν καταφανῆ*, Symmachus *τῆς ὀπτασίας*, the Vulgate *visionis*. These variants abundantly attest corruption, but offer no help to the true text. The Syriac, however, has a much more probable reading, "the land of the Amorite," and this seems to be correct.

The proverb itself is rendered by the LXX *ἐν τῷ ὄρει κύριος ὤφθη*, which may be translated, "In the Mount the Lord was seen," though, if the aorist is gnomic, it would be more correct to translate "is seen." Apart from the tense, which is doubtful, this rendering does not postulate a different Hebrew consonantal text from the Massoretic. It is merely a question of vowel-points.

This Septuagintal reading arrests attention for two reasons. We may be sure that, however we may interpret it, the expression "the Lord was seen" would rightly or wrongly be regarded as an anthropomorphism by many readers. It is well

known that the Septuagintal translators avoided anthropomorphisms. "A dogmatic interest," says Dr. Swete, "has been detected in some of these paraphrastic renderings, chiefly where the LXX have endeavoured to avoid the anthropomorphisms of the original; examples are most frequent in the Pentateuch."[1] Can it be supposed that translators influenced by a bias of this character would have given such a rendering if they had not been impelled by the pressure of a well-settled tradition as to the meaning and pronunciation of the Hebrew text?

A second reason lies in the nature of the proverb "In the mountain the LORD is seen." The thought recalls the well-known passage in First Kings: "And the servants of the king of Syria said unto him, A god of mountains is their god; therefore they were stronger than we: but let us fight against them in the plain, and surely we shall be stronger than they. . . . Thus saith the LORD, Because the Syrians have said, A god of mountains is the LORD, but he is not a god of the valleys; therefore will I deliver all this great multitude into thine hand, and ye shall know that I am the LORD" (1 Kings xx. 23, 28). Is it so certain that the theory of the Syrians was not originally shared by many an Israelite in early days? May not the existence of some such belief have been responsible for the view of the Syrians? If the Septuagintal reading of the proverb is correct, the answer can scarcely be doubtful.

It will be seen that on this view the Massoretic pointing "Mount of the Lord," with its clear reference to the Temple Hill, is not original. It will have been produced by the natural tendency to avoid a seeming anthropomorphism and the

[1] An Introduction to the Old Testament in Greek, 2d edition (1902), p. 327.

failure to enter into the ideas of a past age and realize that there may have been a time when many an excellent man regarded Israel's God as a deity who manifested his power chiefly in the mountains. With the adoption of this reading, all reason for denying this chapter to Moses disappears.

IV

THE AGE OF ISAAC

[From the *Bibliotheca Sacra*, October, 1911.]

In a frequently quoted passage Dr. Driver states one of the most effective of the higher critical objections to the chronology of Genesis:—

"We all remember the scene (Gen. xxvii.) in which Isaac in extreme old age blesses his sons; we picture him as lying on his death-bed. Do we, however, all realize that, according to the chronology of the Book of Genesis, he must have been thus lying on his death-bed for *eighty years* (cp. the ages of Isaac and his sons, xxv. 26; xxvi. 34; xxxv. 28)? Yet we can only diminish this period by extending proportionately the interval between Esau's marrying his Hittite wives (Gen. xxvi. 34), and Rebekah's suggestion to Isaac to send Jacob away, lest he should follow his brother's example (xxvii. 46), which from the nature of the case will not admit of any but a slight extension. Keil, however, does so extend it, reducing the period of Isaac's final illness to forty-three years, and is conscious of no incongruity in supposing that Rebekah, *thirty-seven* years after Esau had taken his Hittite wives, should express her fear that Jacob, then aged seventy-seven, will do the same!"[1]

It has been shown in former articles that the Septuagintal materials often suggest that chronological difficulties have arisen from erroneous notes being incorporated in the biblical text. We are too familiar with marginal notes containing well-meant but erroneous chronological data in modern editions of the Bible for such phenomena to create any surprise. In an age before printing, the contents of such notes could find their way into the text only too easily. Hence, when we are confronted with a difficulty such as this, our

[1] Contemporary Review, vol. lvii. p. 221.

first task must be to inquire whether any important variants have been preserved. It happens that this is indeed the case. There is a suggestive textual variant in xxxv. 28, and there is a no less suggestive difference of *translation* (involving no alteration of the Hebrew text) in xxvii. 41. First, as to the variant reading. According to the Massoretic text of xxxv. 28, Isaac was 180 years old when he died. According to Septuagintal MSS. d, p, the number should be 150. It is remarkable that these are the very MSS. which present valuable chronological variations in the case of the difficulty with regard to Ishmael's birth.[1] It seems certain that they represent a recension of the Septuagint which in some important matters goes back to a textual tradition that differed from the Massoretic.

The number 150 may or may not represent the original reading of the Hebrew, but it provides a useful reminder that nothing is more susceptible to corruption than numbers. It also — and this is a more important point — reminds us that numbers of this kind are merely round numbers, not to be taken literally. It is astonishing to find Dr. Driver placing reliance on such numbers as 60 and 40 in xxv. 26 and xxvi. 34. It is well known that these numbers are often used in the Bible where we should employ such phrases as "several," "a considerable number of," etc. That is to say, they frequently express an unknown or indeterminate period of some duration. Hence calculations based on them are apt to be fallacious, and this part of the argument is therefore unsound.

More interest perhaps attaches to the rendering of xxvii. 41. "We picture him as lying on his death-bed." Yes, but why? Chiefly because the English versions represent

[1] See *infra*, p. 81.

Esau as stating, in this verse, that the days of mourning for his father are at hand. We thus appear to have the unimpeachable authority of the eldest son for the view that Isaac was in a critical condition. But this rendering is not the only one possible, nor was it adopted by the Septuagintal translators. In their view the Hebrew expresses a ferocious wish: "May the days of mourning for my father approach, in order that I may slay my brother Jacob." That is a very different thing from a statement that they actually are at hand. And this translation surely has the advantage of representing far more truly and vividly the fierce, unbridled character of the man and the intensity of his hatred for his brother. He prays for his father's death, in order that he may kill Jacob. Assuredly the view of the Septuagintal translators is more in accordance with the known character of the nomads of the desert than the kid-glove alternative of the English versions.

If the chapter be read in the light of this modification, we find that the idea that Isaac is dying has no substantial basis. When we look at the real nature of the event, we see that the patriarch, being an old man, thinks that he may die at any time, and had therefore best put his affairs in order. "Behold now, I am old, I know not the day of my death.... make me savory meat....that my soul may bless thee before I die" (ver. 2, 4). Most people to-day must be familiar with cases of old men who could have said the same thing, made their wills to meet the eventuality with due prudence, and lived for many years after. Such things are, after all, matters of everyday experience in any large community. The only modern touch that is wanting in the picture is, that Isaac had not been "given up" by the most celebrated physicians of the day. But I have no doubt that old men some-

times lived much longer than was expected, even when there were no doctors to prophesy their impending demise. Any reader of mature age could cite cases from his own experience in which a man has lived twenty or thirty years after his death had been confidently anticipated. Surely the Bible narrative is not to be condemned as unhistorical on the simple ground that it presents us with episodes that in their main essentials could be paralleled from the most ordinary experience.

V

THE POST-MOSAICA OF GENESIS

[From the *Bibliotheca Sacra*, January, 1911.]

THE application of textual criticism reduces the post-Mosaica of Genesis to a negligible quantity. We have seen that the Septuagintal evidence removes Genesis xxii. from the category of passages that could have been written only after the time of Moses.[1] Two of the other best-known passages are treated by Dr. Carpenter as the additions of glossators — in my opinion rightly. These are xii. 6b ("And the Canaanite was then in the land") and xiii. 7b ("And the Canaanite and the Perizzite dwelled then in the land"). In these passages "then" if interpreted to mean "then still" cannot be earlier than the time of Solomon; and this seems the more plausible interpretation. Another passage that should probably be regarded as a commentator's addition is xxxvi. 31–39. Dr. Carpenter's note on the first of these verses is as follows: "With this verse R introduces an extract 32–39 from a document wholly different in style from the context. Its source is unknown, but on the analogy of other passages of composite origin, e.g. x, it is provisionally assigned to J."

With the exception of a single word the other texts on which the critics rely to prove the late date of Genesis all fail to do so when carefully examined. It is said that the use of the "sea" to denote the West points to a narrator who lived in Palestine. Thus we read in xii. 8, "having Bethel on the *sea* side"; xiii. 14, "northward and southward and eastward and seaward." The conclusion most certainly does not follow from the premise, for a narrator could easily picture to him-

[1] See *supra*, No. 3, "The Dating of Genesis xxii."

self the geographical situation of Palestine, wherever he might himself be living; but in point of fact the linguistic usage of "seaward" for "westward" is more probably to be explained by the incorporation in Genesis of stories that had come down from the patriarchal times with their language unchanged. A very strong instance of this occurs in x. 19: "As thou goest toward Sodom and Gomorrah and Admah and Zeboiim," — a phrase that could not have originated after the destruction of the places named in Abraham's time. In the face of such a passage as this no argument for late date can be drawn from the usage of the word "sea"; but a presumption of very early date arises.

As König points out, the name "Hebron" in Genesis does not prove post-Mosaic origin; because, though Joshua xiv. 15 states that "the name of Hebron beforetime was Kiriath-arba," we have no knowledge as to when the change of name was made. The narrative does not suggest that Caleb was responsible for the change. On the contrary, in the preceding verses the place is called Hebron, as would be done if it had already borne that name when the gift was made. Hence this antiquarian note does nothing to prove the post-Mosaic date of passages in the Pentateuch.

More important is the argument based on the phrase "the land of the Hebrews" in xl. 15. This is supposed to be an anachronism, on the ground that Canaan could not have been called the land of the Hebrews before the conquest.

The ordinary Septuagintal text here reads "land of Hebrews." The unusual omission of the article cannot be due to chance; for "land of Hebrews" is neither Greek nor Hebrew for "land of *the* Hebrews." Therefore the original text must have contained some place name instead of the word "Hebrews." Only two variants are recorded in the larger Cam-

bridge LXX: one of these is "of Egypt," the other "of a Hebrew." Neither of these makes sense: but both confirm the inference that must be drawn from the absence of the article. They appear to go back to a text in which some singular word stood. We are therefore definitely able to say that there is corruption in this passage, but with our present materials we cannot restore the original text.

Most of the other alleged post-Mosaica appear to be generally abandoned by the critics. Since the discovery of the Tel el-Amarna tablets, "Salem" in xiv. 18 no longer ranks as an anachronism. It was once claimed that the "tower of Eder" in xxxv. 21 pointed to late date (cp. Micah iv. 8; Neh. iii. 1), but nothing is now heard of this curious contention. Dr. Driver holds that "in Israel" (xxxiv. 7) is inconsistent with Mosaic authorship, but is so palpably in error that his fellow-critics do not generally advance this argument. *If* the gloss in 1 Samuel ix. 9 is in all respects accurate, and *if* the word "prophet" in Genesis xx. 7 is used in precisely the same meaning as under the monarchy, then no doubt a case may be made against this word; but the postulates place considerable strain on men's faith.

There is, however, one word in Genesis against which a good case can be made — the name "Dan" in xiv. 14. This would naturally be identified with the later Dan, for the hypothesis that there might be another place of this name possesses little probability. The only variants recorded in the larger Cambridge Septuagint — "Dam" and "Dathan" — appear to be due to Greek corruptions. The word may be a gloss, as Dr. Orr thinks: it may, however, equally well be a corruption of some other word. In any case it would show a lamentable lack of proportion to argue for a late date for Genesis as a whole on the ground of this single word.

VI

THE ANSWER OF TEXTUAL CRITICISM TO THE HIGHER CRITICISM OF THE STORY OF JOSEPH (I)

[From the *Bibliotheca Sacra*, January, 1910.]

It has been shown in articles that have appeared in the Bibliotheca Sacra during the past few years how the modern critical theory breaks down at one point after another when submitted to adequate tests.

Amongst other arguments, evidence has been advanced to prove that in many instances scientific textual criticism kills the higher criticism. It is believed that this is so to a very large extent in the book of Genesis, and it is proposed in the present article to utilize some of the material for this purpose.

The writings of Moses have been subjected to prolonged study during many centuries, and countless notes have been written on them. Nowadays such notes are written or printed in a form which renders any mistake as to their nature impossible, but this was not always so. As with all ancient books that have depended on a MS. tradition, so with these, there is reason to suppose that many glosses have been incorporated with the text. By the removal of such glosses — assuming that such removal is possible — the text would gain in clearness. It happens that Septuagintal and other readings that have been preserved to us often suggest that words and clauses found in our Massoretic text are not original. Of course the mere fact that some authority omits a word is not in itself sufficient to show that the word is a gloss; but if the result of the omission is to leave a superior text, and if the presence of the

word is most easily accounted for as the work of a glossator, a presumption arises that the shorter text is the more correct. As a general rule such omissions will not affect the sense materially, though they may enhance the literary beauty of the narrative; but there are cases where grave difficulties disappear when the glosses are removed. A very interesting example occurs in xxi. 1, where the Septuagintal MS. n omits the words "And the Lord did unto Sarah as he had spoken." This leaves the sense unaffected, but it makes the narrative more vigorous and robs the higher critics of a "doublet." Examination of the text suggests too that the lists of words on which the critics often place so much reliance are largely due to the interpolations of glossators. We shall find instances in the narrative we are to examine.

A particularly favorable example of the use of textual criticism is to be found in the story of Joseph. It will be best to omit chapter xxxvii. for the present, because it calls for the weighing of rather delicate arguments, and this can be better effected in the light of the experience to be gained by first considering the text of the later chapters. In the Massoretic text we find in xxxix. 20 f. that Joseph's master threw him into prison, "the place where the king's prisoners were bound." He acquired favor with the keeper of the prison, and so came into the position which brought him into touch with Pharaoh's two officers when they were imprisoned. But in chapter xl. we find him imprisoned "in the house of the captain of the guard," i.e. his master (called Potiphar in xxxix. 1), and it is this captain who puts Joseph in charge of the officers, the keeper of the prison having disappeared altogether and the prison itself being suddenly identified with "the house of the captain of the guard." The discrepancy is undeniable. The higher critics try to remove it by resolving the story into two.

On this view, J makes Joseph the slave of an Egyptian who throws him into prison, while E makes him the slave of the captain of the guard in whose house the two officers are bound. Dr. Carpenter therefore gives to redactors the following phrases: Genesis xxxix. 1, "Potiphar an officer of Pharaoh's, the captain of the guard"; ver. 20, "the place where the king's prisoners were bound"; xl. 1, "that the butler of the king of Egypt and his baker offended their lord, the king of Egypt"; ver. 3, "into the prison the place where Joseph was bound"; ver. 5, "the butler and the baker of the king of Egypt, which were bound in the prison"; ver. 7, "with him"; ver. 15, "And here also have I done nothing that they should put me into the dungeon"; xli. 14, "And they brought him hastily out of the dungeon."

The Septuagintal evidence entirely disposes of all this. Except in xl. 5, 7, it confirms the Massoretic text of the passages rejected by Dr. Carpenter, and it shows that the discrepancy has arisen not as the result of the combination of two stories, but partly through the corruption of a few letters, partly through the work of glossators. The text of chapter xxxix. calls for no notice here; for, though the evidence suggests that a few words here and there have been added by glossators,[1] these do not at all affect the problem we have to consider. But in chapter xl. the matter is different. In verse 3 the words

[1] For example, the original LXX certainly omitted the following (among other) phrases: ver. 3, "in his hand"; ver. 11, "of the men of the house" (omitted by Vulgate); ver. 12, "in her hand"; ver. 13, the whole verse; ver. 22, "he was the doer of it." It probably also omitted the following phrases: ver. 5, "and over all that he had"; ver. 10, "or to be with her" (? omitted by Vulgate); ver. 20, "and he was there in the prison." The omission of verse 13 is due to homoeoteleuton (for in the Hebrew verses 12 and 13 both end with the same word), but the others may all be glosses, and indeed probably are. In no case does their removal affect the sense materially.

" in the house of the captain of the guard " were lacking in the original LXX and are known to have been added by Origen. In verse 4 the LXX and Vulgate read " keeper of the prison " for " captain of the guard." The Hebrew of the two phrases would be as follows:—

שׂרביתהסהר " keeper of the prison "
שׂרהטבחים "captain of the guard "

It is easy to see that damage to a MS. might be responsible for a mistake. In verse 7 Lucian (supported by other Septuagintai MSS. and the Vulgate) omits " in his master's house." In xli. 10, A, the best MS., (supported by four cursives,) again reads " keeper of the prison " for " captain of the guard." These readings dispose of the difficulties, but it may be well to give the text of Genesis xl. 1–7 as the LXX appears to have had it originally, for the purpose of showing the limits within which variations are possible in a passage that seems to have been very extensively glossed. The readings adopted in each case rest on some evidence, but the result as a whole is obtained by putting together hints from various sources.

" And it came to pass after these things, that the butler of the king of Egypt and his baker offended their lord the king of Egypt, and he was wroth against his two officers. And he put them in ward into the prison, the place where Joseph was bound. And the keeper of the prison charged Joseph with them, and he ministered unto them: and they continued a season in ward. And they dreamed a dream both of them in one night. And Joseph came in unto them in the morning, and saw them, and, behold, they were sad. And he asked them, Wherefore look ye so sadly to-day?"

This text makes sense. It is also superior to the Massoretic in other ways. In verse 2 " Pharaoh " is the sort of explanatory addition that is dear to glossators, and so still more is the tautologous " against the chief of the butlers, and against the chief of the bakers," a very clumsy addition to the text. In verse 5 " each man his dream " is again unnecessary, while

"each man according to the *interpretation* of his dream" makes no sense. The words "the butler . . . . prison" in the same verse are a very cumbrous and unnatural piece of epexegesis, and in verse 7 it is extremely improbable that a narrator who had just referred to the officers as "them" should think it necessary to explain their identity, company, circumstances, and (false) location with the words "Pharaoh's officers that were with him in ward in his master's house," while "saying" is a very frequent gloss, being in fact equivalent to our inverted commas.[1] Hence the Septuagintal text is, from a literary point of view, a great improvement on the Massoretic.

The critical difficulties, of course, vanish; but it is interesting to note that our great philologists have attributed to early sources late glosses that were unknown to the Septuagintal translators and in some cases to Jerome, while referring to redactors portions of the original narrative.[2]

Genesis xli. 45 brings us to another difficulty. "And Joseph went out over the land of Egypt" is a doublet of the similar statement in verse 46. This half verse and the first half of verse 46 are therefore given to P. But in point of fact the clause was missing in the original LXX, as appears from Field's Hexapla. It is probably the work of a glossator.[3]

[1] The Vulgate has *Sciscitatus est eos dicens*, i.e. "He asked them, saying."

[2] There is Septuagintal evidence for regarding the following phrases in the Massoretic text of chapter xli. as glosses: ver. 8, "unto him" (omitted by Vulgate); ver. 11, "Pharaoh's" (the second occurrence; omitted by Vulgate); ver. 13, "Pharaoh's" (omitted by Vulgate).

[3] Septuagintal evidence suggests that the following phrases in the Massoretic text of chapter xli. may also be glosses: ver. 4, "the ill-favored and lean-fleshed kine"; "seven" (both omitted by Vulgate); ver. 5, "and he slept"; ver. 8, "And it came to pass in the morning," "all" 1°, "Pharaoh" (omitted by Vulgate), "unto Pharaoh" (omitted by Vulgate); ver. 11, "we dreamed each man

A similar remark must be made as to the phrase "And Joseph knew his brethren" in xlii. 8. This is missing in a MS. of Holmes and merely repeats the statement of the preceding verse. By the critics it is treated as a doublet and made an argument for dissection.

At this point it will be well to consider an argument that affects many chapters of the narrative. Sometimes we read "Jacob" and sometimes "Israel" as the designation of Joseph's father; and it is therefore contended that we have to deal with three sources, one of which (J) speaks of "Israel," while the other two (E and P) invariably call the patriarch "Jacob." Like so many other critical contentions, this can be supported only by postulating a host of redactors, etc., who would introduce the wrong names at inopportune moments. Thus in xlii. 4 (J) "Jacob" comes out; in xlvi. 2 (E) "Israel" has been substituted for Jacob; in verse 5 (E) everything from "and the sons of Israel" to the end of the verse goes to a redactor; in xlviii. 8, 11, 21, (all E) "Israel" has again to be removed; and in xlix. 28 the beginning of the verse down to "unto them" goes to a compiler.

In weighing these views it must not be supposed that the higher critics have adduced a scintilla of evidence in their sup-

according to the interpretation of his dream"; ver. 12, "Our dreams to each man according to his dream he did interpret" (probably unknown to the Vulgate too); ver. 17, "unto Joseph" (omitted by Vulgate); ver. 19, "very," "and lean-fleshed" (omitted by Vulgate); ver. 23, "withered" (omitted by Vulgate); ver. 27, "and ill-favored"; ver. 34, "in the seven plenteous years"; ver. 44, "or his foot"; ver. 46, "king of Egypt"; ver. 51, "Joseph" (omitted by Vulgate); ver. 56, "And the famine was sore in the land of Egypt." It will be observed that in no case does the omission affect the sense. I am therefore of the opinion that all these phrases are glosses. It is worth noting that in verse 34 the LXX has "take the fifth part of *all the products of* the land of Egypt."

port. Nothing is further from their minds. Their case is that certain phrases conflict with their theory and must on that account be spurious. The case of the scientific textual critic, on the other hand, is that the textual evidence must be carefully weighed in the light of all relevant considerations for the purpose of constructing a scientific critical text, and that this process must be conducted without reference to any modern theories of date and composition.

In point of fact the occurrences of the names "Jacob" and "Israel" are in many cases very doubtful from a textual point of view, as the following table, which is not exhaustive, will show. It should be said that the Vulgate is more paraphrastic than the LXX and must be used with caution, particularly in its present unrevised condition; yet the support it receives in many instances from other authorities, and the intrinsic value of many of its readings, even where it stands alone, entitle its evidence to consideration.

Reference.	Alleged Source.	Massoretic Text.	Variants.
Gen. xxxvii. 2.	P.	Jacob.	Vulgate, his.
Gen. xxxvii. 2.	J.	their father.	LXX, Israel (see Field's Hexapla, *ad. loc.*); 2 cursives, Jacob.
Gen. xxxvii. 3.	J.	Israel.	LXX, Jacob, with some authority for Israel.
Gen. xxxvii. 13.	J.	Israel.	1 MS. of the LXX, his father.
Gen. xxxvii. 14a.	E.	he said.	Origen found Israel said, and obelized Israel (Field).
Gen. xxxvii. 34.	E.	Jacob.	Vulgate omits.
Gen. xlii. 4.	J.	Jacob.	LXX omitted; Origen inserted it.
Gen. xlii. 5.	J.	And the sons of Israel.	Vulgate omits the whole phrase; 1 Septuagintal MS. (y) omits the verse; 2 (l, o) read Jacob for Israel.

Reference.	Alleged Source.	Massoretic Text.	Variants.
Gen. xlii. 36.	E.	Jacob their father.	1 Heb. MS. of Kennicott's reads Israel for Jacob; 1 Septuagintal MS. omits the whole phrase.
Gen. xliii. 2.	J.	their father.	Vulgate, Jacob; many Septuagintal authorities, Jacob their father.
Gen. xliii. 8.	J.	unto Israel his father.	1 Heb. MS. of Kennicott's omits the whole phrase; Vulgate, Ethiopic, and Chrysostom omit Israel.
Gen. xliii. 11.	J.	their father Israel.	2 Heb. MSS. of Kennicott's omit their father; the best MS. of the LXX originally omitted Israel, while another of Kennicott's MSS. reads, their father Jacob.
Gen. xlv. 27.	E.	Jacob their father.	Vulgate and 1 MS. of the LXX (f) omit.
Gen. xlv. 28.	J.	Israel.	1 Heb. MS. of De Rossi's, Vulgate, 1 MS. of the LXX, Chrysostom, omit; 3 MSS. of the LXX and the Ethiopic read Jacob.
Gen. xlvi. 1.	J.	Israel.	2 MSS. of the LXX, Jacob.
Gen. xlvi. 2.	E.	Israel.	1 MS. of the LXX, Jacob; Vulgate paraphrases.
Gen. xlvi. 5.	R.	Israel Jacob their father (the Heb. order being, and carried the children of Israel Jacob their father).	Most Septuagintal authorities divided between Jacob Israel their father, Jacob their father, and Israel Jacob their father. The best MS. reads Israel, but omits Jacob. The Vulgate reads *tuleruntque cum filii*, omitting both names.
Gen. xlvi. 6.	P.	Jacob.	Vulgate, Old Latin, and Chrysostom omit. The other Septuagintal authorities divide as to the proper position of the word — a fact that points to its not being original.
Gen. xlvi. 8.	P.	Children of Israel.	1 Heb. MS. of Kennicott's and 1 MS. of the LXX omit.

Reference.	Alleged Source.	Massoretic Text.	Variants.
Gen. xlvi. 8.	P.	Jacob and his sons.	1 Heb. MS. of Kennicott's 3 MSS. of the LXX (d, n, p), and the Ethiopic omit. There are other Septuagintal variations. Vulgate has *ipse cum liberis suis*, which may be a paraphrase or may point to a different Heb. text.
Gen. xlvi. 29.	J.	Israel.	Vulgate, 1 MS. of the LXX (e), and Chrysostom omit; 1 other MS. of the LXX (n), the Ethiopic, and the Syro-Hexaplar (margin) read Jacob.
Gen. xlvi. 30.	J.	Israel.	Vulgate, his father.
Gen. xlvii. 7.	P.	Jacob 1°.	Vulgate, Ethiopic, and 5 MSS. of the LXX omit.
Gen. xlvii. 7.	P.	Jacob 2°.	Vulgate omits.
Gen. xlvii. 8.	P.	Jacob.	Vulgate omits; 1 MS. of the LXX (p), him.
Gen. xlvii. 9.	P.	Jacob.	Vulgate and 1 MS. of the LXX (p) omit.
Gen. xlvii. 27.	J.	Israel.	2 MSS. of the LXX (d, h) and Chrysostom, Jacob.
Gen. xlvii. 28.	P.	Jacob 1°.	Vulgate omits, 1 MS. of the LXX reads (in the margin) Israel.
Gen. xlvii. 28.	P.	Jacob 2°.	Vulgate and 1 MS. of the LXX (s) omit.
Gen. xlvii. 29.	J.	Israel.	Vulgate and 2 MSS. of the LXX (d, f) omit.
Gen. xlvii. 31.	J.	And he said.	1 MS. of the LXX (l), And Jacob said.
Gen. xlviii. 2.	E.	Jacob.	Vulgate, the old man (? paraphrase).
Gen. xlviii. 2.	J.	Israel.	Vulgate, he; about 7 MSS. of the LXX, and Jacob.
Gen. xlviii. 3.	P.	Jacob.	1 MS. of Kennicott's perhaps, Israel. From a Latin translation it would seem that the Syriac also has Israel. Vulgate paraphrases, but has no name.
Gen. xlviii. 8.	E.	Israel.	Vulgate omits; 1 MS. of the LXX (f), Jacob.
Gen. xlviii. 9.	J.	he said.	LXX, Jacob; Old Latin, Israel.

Reference.	Alleged Source.	Massoretic Text.	Variants.
Gen. xlviii. 10.	J.	Israel.	3 MSS. of the LXX (d, p, t) and Bohairic, Jacob.
Gen. xlviii. 11.	J.	Israel.	Vulgate omits; 1 MS. of the LXX, Jacob.
Gen. xlviii. 14.	J.	Israel.	Vulgate, he.
Gen. xlviii. 21.	E.	Israel.	Vulgate omits.
Gen. xlix. 28.	R or P.	Israel.	3 Heb. MSS. of De Rossi and the LXX, Jacob (LXX reading children of Jacob for tribes of Israel); 1 Heb. MS. of Kennicott's omits.
Gen. l. 2.	J.	And the physicians embalmed Israel.	Vulgate and some Lucianic MSS. of the LXX omit.

The clue afforded by the Massoretic usage of Jacob and Israel in these chapters is clearly as worthless as Astruc's famous clue. The fact is that in old Hebrew prose such phrases as "and he said" were much commoner than in our existing texts. Later, glossators studded the text with explanatory notes ("Joseph," "Pharaoh," "his father," "Jacob," "Israel," etc.). Sometimes two or three glosses would arise independently, as where one and the same person might be referred to as "his father," "Jacob," or Israel." It would be easy to make similar lists of the omission by various ancient authorities of other names, did anything depend on them. But as a rule such variations — which make no difference whatever to the sense — are quite unimportant. It is merely the latitude given to the glossators' taste by Jacob's possession of two names that has given unusual interest to their proceedings in this case. There is no sufficient reason to suppose that the usage of the original text presented any problem, or afforded the slightest justification for postulating a plurality of sources, following different principles in the naming of the third patriarch.

VII

THE ANSWER OF TEXTUAL CRITICISM TO THE HIGHER CRITICISM OF THE STORY OF JOSEPH (II)

[From the *Bibliotheca Sacra*, April, 1910.]

THERE has hitherto been one great fundamental historical difficulty in the story of Joseph. Most of the details are in themselves highly probable. The local coloring appears to be minutely accurate in the light of what is known of ancient Egypt. Joseph's sudden rise to power is exactly what might be expected at an Oriental court. The incident of the purchase of the Egyptians and their lands finds world-wide parallels.[1] Famines and successions of good years and bad are in themselves too frequent to arouse comment; but one great historical improbability remains. Is it likely that a minister of Joseph's position would personally serve all who came to buy corn?

The other details of his activity are probable enough. We find him at the head of a large office controlling a number of store-houses,[2] imprisoning people at pleasure, residing with a suite away from the office, and directing the policy of a great state department. Would such a man act as salesman to all comers? Undoubtedly the Massoretic text represents him as so doing. Its other expressions are all susceptible of reasonable explanation, but in xlii. 6 it says bluntly: "And Joseph was the governor over the land; he it was that sold to all the

[1] In xlvii. 21, for M. T., העביר אתו לערים, "he removed them to the cities," the Samaritan and Vulgate have העביד אתו לעבדים, "he made them bondmen." The LXX apparently had לו for אתו: but otherwise agrees with the Samaritan.

[2] So read in xli. 56 with some ancient Versions.

people of the land." The difficulty was felt by Jerome, for he paraphrases and makes the sales take place by Joseph's direction (*ad ejus nutum*). On the other hand, Dr. Carpenter is inclined to assign the words "was the governor over the land" to R, on the ground that the word rendered "the governor" is late. The larger Cambridge Septuagint gives reasons for holding that the difficulties that troubled Jerome and Dr. Carpenter are alike due to the activity of a commentator. One MS. (f) omits the first half of the verse (down to "people of the land"); and this is clearly right.

But does the historical difficulty really vanish with this change? Do we not still see Joseph selling to the Egyptians and to his brethren? If the narrative be carefully examined we shall find the answer. It is no doubt true that we read of Joseph's selling to the Egyptians and other similar phrases; but such expressions do not necessarily imply any more than that he directed the operations of the department that did these things. In the case of his brethren the matter is different; but the sequel makes it reasonably plain that the difficulty merely arises from the fact that the narrator's interest is centered on the moral and dramatic elements of the story, so that he omits details that are irrelevant to his purpose. It is not to be supposed that the accusation of being spies would have sounded arbitrary and unreasonable to Egyptians who were unacquainted with the identity of the strangers who had come to buy corn. On the contrary, we must assume that in taking this line Joseph was acting as his department would have expected him to act. In other words, the charge was made because in the eyes of the Egyptians these foreigners were for some reason or other suspect. It was probably on this account that they were interviewed by Joseph himself. It was not that he personally weighed out corn to all comers and received the

purchase money in exchange, but rather that, if circumstances arose that caused suspicion, the matter was brought before the head of the department. Whether the mere fact that the would-be purchasers were foreigners was the sole ground of suspicion in this case it is impossible to tell: that there was something about them that stood in need of explanation appears to result from the narrative and to provide the solution of the difficulty that has been felt. It must be remembered that the narrator's motive naturally led to the suppression of all details that did not bear directly on the absorbing human interest: in reading a story of this kind one must always bear in mind the point of view from which it is told.

The analysis of chapter xlii. has already been answered in part. We have seen that the Jacob-Israel clue and the argument from Joseph's twofold recognition of his brethren melt away under the rays of textual criticism. The same holds good of another critical argument. It is claimed that, in J, Joseph is described by his brothers as "the man"; in E, as "the man the lord of the land" (xlii. 30, 33). But, in point of fact, in verse 30 one MS. of the LXX (n) and the Vulgate omit "the man," and in verse 33 the Vulgate reads "and he." In both cases the variants appear to be more original than the Massoretic text; so that the argument comes down to the fact that in verse 30 Joseph is spoken of as "the lord of the land." If the critics choose to base an argument on that, nobody need begrudge it to them.

It is further said that in J "the money is found in the mouth of the sacks, when one of them is opened for provender on the way xlii 27, 28a, xliii 12, 18, 21, xliv 8," while in E "the money is found in the sacks on being emptied when they reach Jacob, provision for the way being furnished separately xlii 25, 35." (Oxford Hexateuch, vol. ii. p. 66.)

First, as to the location of the money. In the LXX the money is found in the mouth of the sack opened on the way in xlii. 27, but the word "mouth" is missing in xliii. 12, 18, 21; xliv. 8; so that its presence in the Hebrew text must be attributed to a glossator. Thus the story is that when the brothers reached the inn one of them opened his sack to obtain not provision for the way but provender for his ass. There is here no inconsistency. Subsequently, on their arrival home, the others found that their money also had been returned. So far as I can see, the only discrepancy that can be charged is that in xliii. 21 the brothers say, "When we came to the lodging-place and we opened our sacks and, behold, every man's money was in his sack," etc.; while in fact only one of the sacks had been opened there, the others having been opened at home. I can only say that, having regard to the ordinary colloquial habits of mankind, there is nothing in a discrepancy of that kind to justify any suspicion as to the unity of the narrative.

There is one other point that requires notice. The Hebrew generally uses for "sack" a word (אמתחת, *amtachath*) not found outside this group of chapters; but in verses 25, 27a, and 35 (twice) we meet with שק (*saq*) the ordinary word. The alternation is very striking, and Dr. Carpenter accordingly attributes the first word to J and the second to E, saying, that in 27a *saq* "seems due to the compiler." In point of fact in 27 the LXX and Aquila both had *amtachath*, which is, therefore, probably the correct reading. But in verse 35 a Septuagintal MS. reads this word for sack 2°, and in verse 25, so far as can be judged from the text of the Vulgate in its present condition, Jerome seems to have found the same word. Thus here too the Versions do not confirm the critics. The present text of the Vulgate is too inconsistent in its translations of the

two words for any certain inference to be drawn from its usage, but we may hope for more light when the revision that has now been undertaken is completed. Meanwhile it should be noted that the Massoretic text is clearly not a reliable guide in this matter. *Saq* may be due to glossators or the two words may have been discriminated to convey different shades of meaning; but, for the present, no certain conclusion is possible.

The other arguments employed to buttress this part of the analysis are unworthy of attention, being merely based on the forced analysis itself, and not on anything in the biblical text.[1]

There is nothing further in Mr. Carpenter's commentary on the concluding chapters of the story of Joseph that calls for detailed notice, but it is desirable to say a few words about some of the passages attributed to P. The first of these is xlvi. 6 f. In these two verses the following words are doubtful textually on Septuagintal or Hebrew evidence or both: ver. 6, "in the land of Canaan," "Jacob"; ver. 7, "with him," "and all his seed brought he with him into Egypt." Je-

[1] There is Septuagintal authority for suspecting the following other phrases in these chapters: xlii. 2: "And he said" (omitted by Vulgate), "and not die"; ver. 3, "ten"; ver. 5, the whole verse; ver. 6, "with their faces"; ver. 13, "the sons of one man," "the land of"; ver. 14, "unto them" (omitted by Vulgate); ver. 18, "Joseph" (omitted by Vulgate); ver. 22, "and ye would not hear"; ver. 32, "brethren," "this day" (omitted by Vulgate); ver. 33, "unto us"; ver. 34, "unto me," "but that ye are true men" (omitted by Vulgate); ver. 35, "they and their father"; xliii. 3, "saying" (omitted by Vulgate and two of Kennicott's MSS.); ver. 8, "that we may live," "and also our little ones"; ver. 9, "unto thee"; ver. 13, "and arise go again" (Vulgate has *et ite* for the whole phrase); ver. 14, "other" (omitted by Vulgate), "and Benjamin"; ver. 15, "that" (omitted by Vulgate), "they took" 2° (omitted by Vulgate), "in their hand" (omitted by Vulgate); ver. 17, "the man" 2° (omitted by Vulgate), "Joseph's" (omitted by Vulgate); ver. 22, "in our hand" (omitted by Vulgate); ver. 24, "And the man brought the men into Joseph's house" (compare ver. 16, 17); ver. 26, "into the house" (omitted by Vulgate); ver. 30,

rome too had a different text, for he renders these verses "(tuleruntque eum filii . . . .) et omnia quae possederat in terra Chanaan: venitque in Aegyptum cum omni semine suo, filii ejus, et nepotes, filiae, et cuncta simul progenies." Then comes a passage (ver. 8–27) given to a late priestly writer. This is omitted from consideration as not being an integral part of the story of Joseph, and we pass to xlvii. 5–11. Here there is great uncertainty as to the text, for the LXX omitted 5 and 6a (down to "dwelt"). The last half of the verse is given to J, and therefore does not touch our inquiry; but in verse 9 there is ground for omitting everything after "few and evil have (they) been." In verse 11 "land of" should probably be omitted before "Egypt"; while "in the land of Rameses" is of doubtful authenticity. But once all these phrases are removed, as they perfectly well can be without injury to the sense, what evidence is there that these verses should be attributed to P? The same argument applies to xlvii. 27b, 28, where "and were fruitful," "land of," "the years of his life," are all doubtful. In chapter xlix. there is

"there" (omitted by Vulgate); ver. 34, "And they drank and were merry with him." On the other hand, in verse 28 the LXX and the Samaritan add "And he said, Blessed be that man of God," after "alive." In chapter xliv. the following omissions may be noted: ver. 11, "and opened every man his sack"; ver. 14, "house" (omitted by Vulgate), "and he was yet there"; ver. 23, "youngest"; ver. 26, "We cannot go down"; ver. 27, "unto us." In chapter xlv. the following may be noted: ver. 3, "at his presence" (omitted by Vulgate); ver. 5, "hither"; ver. 7, "in the earth" (there is some evidence for omitting "to preserve you a remnant" and some other evidence for omitting "to save you alive by a great deliverance." The Vulgate omits "by a great deliverance." Apparently the present Hebrew text is conflate); ver. 12, "my brother"; ver. 16, "saying" (omitted by Vulgate); ver. 19, "this do ye" (omitted by Vulgate); ver. 22, "each man"; ver. 23, "corn and," "and victuals" (omitted by Vulgate); ver. 27, "which he had said unto them"; ver. 28, "Joseph."

evidence for omitting "And he charged them," "unto them" (both ver. 29); "that is in the field of Ephron the Hittite, in the cave that is in the field of Machpelah, which" (ver. 29–30); "with the field from Ephron the Hittite" (ver. 30); "his wife" 1° (ver. 31); while verse 32 is entirely omitted by the Vulgate. Similarly, in l. 13, "with the field. . . . Mamre" is a glossator's addition.

I now return to chapter xxxvii. I have left it till the last because it contains a difficulty requiring somewhat delicate textual operations.

It is supposed by the critics that in J's story Judah was prominent, while in E's version his part was played by Reuben. Accordingly verses 21 f. are divided. The earlier verse is assigned to J — "Reuben" being declared to be an alteration of the original text — and the later to E. The textual evidence disposes of this, for the Vulgate, supported by one of Kennicott's Hebrew MSS., omits "And Reuben said unto them" (ver. 22). It also reads the second person plural for the first in verse 21 ("Do not take his life"). It is clear that in point of fact the attitudes of Reuben and Judah were quite different. Reuben wished to save Joseph, Judah to make money out of him instead of killing him. There is no hint that the latter was actuated by any nobler sentiment. Moreover the sequel points in this direction. The language of Reuben in xlii. 22 ("his *blood* is required"), interpreted naturally, means that he thought his brothers had been responsible not for selling but for killing Joseph.[1]

The real difficulty lies elsewhere. While it is clear from

[1] It is certainly true that in chapter xlii. Reuben pleads unsuccessfully with his father, while in chapter xliii. Judah manages to persuade him at a later date; but there is not the slightest discrepancy in all this. Reuben's previous conduct had been such as to rob him of all influence with Jacob (xxxv. 22).

xxxvii. 25–27, 28b, and xxxix. 1 that Joseph was sold to Ishmaelites, we read of Midianites in xxxvii. 28a and 36. The critics of course postulate two stories; and they go further, and say that in E Joseph was kidnapped, while in J he was sold. No doubt in xl. 15 Joseph speaks of having been stolen from the land of the Hebrews, while in xlv. 4 he uses the expression "sold"; but in point of fact both passages are entirely accurate, as he had in fact been both kidnapped and sold by his brothers.

The difficulty is therefore really narrowed down to the question of the Midianites in xxxvii. 28 and 36.

To facilitate the comprehension of a somewhat technical discussion I begin by setting out in Hebrew and English the present Massoretic text, with what appears to be the true text underneath. For the benefit of those who are unacquainted with Hebrew, the translation follows the order of the Hebrew words, hyphens connect the English words corresponding to a single Hebrew equivalent, and bars are used to show the divisions into words.[1]

VERSE 28.

Merchants	Midianites	Men	English rendering of M. T.
כהרים	מ ד (י) נ י מ |	א נ ש (י) מ |	Massoretic Text
		ה י ש מ ע א ל י מ	Emended Text
	the-Ishmaelites		English rendering of E. T.

VERSE 36.

	And-the-Midianites	English rendering of M. T.
	ו ה מ ד נ י ם	Massoretic Text
	ו ה ס ח ר י ם	Emended Text
	And-the-merchants	English rendering of E. T.

What are the facts and the reasons by which these changes can be supported?

In verse 28, two of Kennicott's Hebrew MSS. read

[1] It must be remembered that in Hebrew MSS. words were not always divided, so that in an inquiry of this kind we must look beyond the divisions.

"Mdnm" for "Mdynm" (Midianites). This is indicated above by placing the ' in parentheses. When the vowels are added, this word becomes Medanites, an expression that occurs again in verse 36, but is otherwise quite unknown. In the latter passage it is generally regarded as a corruption from "Mdynm" (Midianites). This exhausts the *Hebrew* evidence, but it must be remembered that considerable latitude was exercised in old MSS. with regard to certain letters called the *matres lectionis;* and accordingly in verse 28 we are free to neglect the ' of the word for "men," and this also is shown by parentheses.

After what we have seen of the habits of glossators, "men, Md(y)nm, merchants," appears to be a description that in its present condition is more likely to be due to a commentator's activity than to the original writer. At this point the Versional evidence comes to the rescue. The readings of most of the Septuagintal authorities afford no assistance, but E and the Ethiopic read "the Ishmaelites" for the whole phrase. At first sight this looks like a correction or a gloss to avoid the difficulty of the original: closer scrutiny shows that that is not the case. A glossator does not *diminish* the number of the words of the original. On the contrary he adds to them. This text presents nothing corresponding to the "merchants" of the Massoretic text and we had already seen reason to suppose that the Massoretic text was too full. Again, it has the single word "the Ishmaelites" for the two "men, Md(y)nites." If it be compared letter for letter with the Massoretic text, it appears that the numbers of the letters exactly correspond (allowing for the features noted above), and that in the middle of both phrases we get ישמ. For these reasons it is fair to suppose that "the Ishmaelites" is the original reading. Five letters having become illegible, the text "men Mdnm" arose;

and in explanation of this unintelligible phrase a glossator interpolated a note "merchants," taken from the then text of verse 36, conjecturing that "Mdnm" must be some out-of-the-way word for "merchants."

With regard to verse 36 the case stands thus: There is a Hexaplar note in Field that the LXX had "Midianites," while other copies had "Ishmaelite merchants"; and this reading is supported by d and p. "Midianites" does not represent a variant to our Massoretic text; but the alternative reading clearly does. In view of the great activity of glossators it is more probable that this reading is itself conflate than that a long word like "Ishmaelites" should have entirely fallen out of the Hebrew text and the other authorities. By a very easy corruption of three letters of "merchants" (assuming the word to be original), we could get the "Mdnm" of the Massoretic text. The process would be aided by the prior corruption of verse 28. This reading, too, would explain the gloss "merchants" in the earlier verse. Lastly, a memory of it seems to have survived in the reading of another Septuagintal MS. (t), which has "the Midianite merchants." For all these reasons the readings suggested above appear to fulfil most exactly the conditions of the problem, and to explain all the available data; and it is submitted that they should be adopted. With their adoption the last and most formidable difficulties of this narrative entirely disappear.

VIII

THE SWANSONG OF THE WELLHAUSEN SCHOOL

[From the *Bibliotheca Sacra*, October, 1910.]

The International Critical Commentary is making slow progress towards completion. Two new volumes have recently appeared, dealing with Genesis and Chronicles respectively. When it is remembered that the first instalment of the Commentary was published as long ago as 1895, that not half the books of the Old Testament have hitherto been treated in the series, and that in the advertisement at the end of Genesis no announcement is yet made of any engagement for a commentary on the book of Job, it will be felt that those responsible for the enterprise may justly be blamed for a tardiness that must impair the value of the publication as a whole. Our business, however, in this article is with a volume that has appeared — the long-expected commentary on Genesis. Its full title is "A Critical and Exegetical Commentary on Genesis" — a grave misnomer as will presently appear — and its author is the Reverend Principal John Skinner, D.D.

Regarded as a whole, the book is mainly a great and laborious collection of the guesses of a particular school of biblical students, made by a writer who has some literary feeling and is not devoid of humor, but entirely lacks originality and critical power, has no acquaintance with the methods of scientific textual criticism and not the vaguest idea of what independent research means. The British theological schools have unhappily been reduced to the level of an intellectual satrapy of the

German Empire, and those who lead them have never been taught to think for themselves. Thus all that Dr. Skinner can do is to collect the views of various German writers and to express his preference for one or another, occasionally suggesting some trifling modifications.

And yet he had an opportunity such as has never before fallen to any commentator on Genesis — for this is the first bulky new commentary on that book that has been published since the appearance of the larger Cambridge Septuagint — and Dr. Skinner had the chance of doing pioneer work on the text which might have given him lasting fame among biblical students, had he been equal to his undertaking. But that was not to be. He has indeed heard of the Cambridge LXX, and there are occasional references to it (e.g. pp. iii, 100, 261), while there are a few passages where, though it is not expressly mentioned, a presumption arises that it has been consulted (e.g. pp. 513, 532); but such cases are very few and far between. Generally speaking, it may be said that the larger Septuagint is of scarcely more use to Dr. Skinner than Dr. Swete's edition would be, and that he has made no effort to utilize the rich new materials that it offers to the true critic. It is in keeping with this that the Introduction contains no section on the text of the book — no general estimate of the textual materials and their value as a whole. Indeed, the Versions appear to have been used by Dr. Skinner principally for the purpose of interpretation rather than of textual criticism. This is of course perfectly legitimate — but then why call the book a *critical* commentary?

Before passing from this, another strange feature must be noticed. Dr. Skinner chronicles versional differences more or less sporadically, for no obvious reason, in a manner that is highly perplexing. To take an instance at random: on page

157, we read, in the small-print note on viii. 20, that the Greek has God where the Hebrew has the Tetragrammaton. What is the object of this remark? That Dr. Skinner does not regard this as the true reading will appear hereafter. It will also be seen that he does not make the slightest attempt to record all divergences of the kind. On what principle, then, is his florilegium of unrecommended variants based? Why is there no explanation of the use to which he thinks they should be put? For myself, having read the book from cover to cover (except the indices, etc.), I am unable to understand the utility of the notes of this type from any conceivable point of view. They are not readings that Dr. Skinner approves himself or quotes others as recommending. They might very easily mislead his readers into supposing that his *apparatus criticus* was exhaustive — though in point of fact it is ludicrously inadequate. What was his object in setting out these facts without giving any clue to the limitations he had set himself or the purpose he had in view?

I wish that the above criticism represented the worst that could be said of the book. If it were impossible to give Dr. Skinner any very high praise, it might yet be said that he had produced a pleasant presentation of a number of improbable guesses, combined with some useful facts, and the volume, though possessing no independent value, might form a passable addition to the existing expositions of Genesis. Unfortunately there are other and even less pleasing features, which justify the title I have given this article.

I turn first to Dr. Skinner's treatment of Astruc's clue — the use of *Elohim* and the Tetragrammaton in the book of Genesis. The discussion will be found in section 7 of the Introduction (pp. xxxiv ff.). After stating Astruc's supposed discovery, Dr. Skinner proceeds as follows:—

"While the earlier attempts to discredit Astruc's discovery took the direction of showing that the use of the two divine names is determined by a difference of meaning which made the one or the other more suitable in a particular connection, the more recent opposition entrenches itself mostly behind the uncertainties of the text, and maintains that the Versions (especially LXX) show the Massoretic Text to be so unreliable that no analysis of documents can be based on its data: see Klostermann, *Der Pentateuch* (1893), p. 20 ff.; Dahse, *Archiv für Religionswissenschaft* vi. (1903), 305 ff.; Redpath, *American Journal of Theology*, viii. (1904), 286 ff.; Eerdmans, *Comp. d. Gen.* (1908), 34 ff.; Wiener, *Bibliotheca Sacra* (1909), 119 ff. It cannot be denied that the facts adduced by these writers import an element of uncertainty into the analysis, *so far as it depends on the criterion of the divine names;* but the significance of the facts is greatly overrated, and the alternative theories propounded to account for the textual phenomena are improbable in the extreme" (p. xxxv).

I pause at this point to draw attention to the admission that the facts adduced import an element of uncertainty into the analysis, so far as it depends on this criterion. In spite of this admission, Dr. Skinner proceeds throughout his book on the view that the ordinary analysis is substantially sound, and makes no attempt to determine the modifications of the theory necessitated by the new facts or the limits of the uncertainty they have imported. To proceed with his arguments:—

"So far as I have observed, no attention is paid to what is surely a very important factor of the problem, the *proportion* of divergences to agreements as between LXX and Massoretic Text. In Genesis the divine name occurs in one or other form about 340 times (in Massoretic Text, יהוה 143 t. + אלהים 177 t. + אדני 20 t.). The total deviations registered by Redpath (296 ff.) number 50; according to Eerdmans (34 f.) they are 49, i.e little more than one-seventh of the whole. Is it so certain that that degree of divergence invalidates a documentary analysis founded on so much larger a field of undisputed readings?"

This is a very much graver feature. In the *Expository Times* for May, 1909, the Rev. A. P. Cox asked certain questions (of which more hereafter), and Dr. Skinner attempted to deal with them. He then wrote (p. 378), "in Genesis the

Samaritan version differs from the Jewish in (I think) eight cases, and the LXX in 49 — about one-sixth of the whole. The other versions do not count for much, being all more or less influenced by the LXX, except Aquila and the Targums," etc. I answered this in the July number of the same paper, and I wrote (p. 474): "Dr. Skinner says that the LXX differs from M.T. in forty-nine cases. But in an enormous number of passages *some* Septuagintal authority, *e.g.* Lucian in Gen. xvi. 11 — sometimes only a single cursive — differs from the ordinary LXX reading. By comparing extant Hebrew variants which confirm some of the Septuagintal variants, I have shown that importance attaches to these. Has Dr. Skinner included all such cases in his forty-nine?" To this no answer was made, but in the September number of the same paper Professor Schlögl, in an independent reply to Dr. Skinner's May discussion, registers the following figures for Genesis i. 1–Exodus iii. 12: The Tetragrammaton *alone* occurs 148 times in the Massoretic text. In 118 places the other texts have *Elohim* or both appellations, so that there is unanimous evidence for the use of the Tetragrammaton in only 30 passages. According to Dr. Skinner, 143 of these 148 occurrences are in Genesis, with which alone he is concerned. Assuming in his favor that all the 30 undisputed instances occur in that book, the proportion of undisputed to disputed readings is 30 to 113.

Next, *Elohim* alone occurs 179 times in the M.T. of the section examined by Dr. Schlögl. Only in 59 passages have the other texts the Tetragrammaton (both appellations in 47). According to Dr. Skinner, *Elohim* occurs 177 times in Genesis; so at the best there are 120 undisputed readings here against 57.

Lastly, the two appellations occur together 20 times in the M.T. of Genesis. There are variants in 19 out of these 20 instances.

That these facts shatter Dr. Skinner's reasoning cannot be denied. There are, however, other matters that need explanation. It appears that while the larger number of divergences quoted by Dr. Skinner is 50, the total mentioned in a controversy to which he was himself a party was no less than 189 (in Genesis alone).

The date of the issue of the *Expository Times* containing Dr. Schlögl's note — to which no reply of any kind has been made — is September, 1909. The date of Dr. Skinner's preface is April, 1910. Yet in the latter he permits himself to write: "At all events, my own belief in the essential soundness of the prevalent hypothesis has been confirmed by the renewed examination of the text of Genesis which my present undertaking required." Now the date of the preface is probably not the date of the introduction, which was presumably in type earlier: yet that introduction itself contains a reference to so recent a book as the "Cambridge Biblical Essays" (see p. xviii), and the Commentary even refers to the *Expository Times* for November, 1909 (p. 292), i.e. to a number that appeared *two months after* Dr. Schlögl's note. But that is not all. In the Bibliotheca Sacra article to which Dr. Skinner refers in this discussion, I had registered a number of divergences other than those mentioned by Redpath and Eerdmans, and Dr. Skinner's attention had been publicly called to this fact in the *Expository Times* for July, 1909. Further, while Dr. Skinner refers only to the numbers registered by these two writers who dealt with the Septuagint alone, he had himself recorded the fact on page 378 of the *Expository Times* for May, 1909, that the Samaritan differs from the Massoretic

text in 8 cases, and on page 330 of his commentary he registers two Syriac divergences (Gen. xxii. 11 and 15), and *actually adopts the Syriac reading in the former of those verses.* I shall return to this matter presently. At this stage I ask:—

1. Why did Dr. Skinner mention only the number of deviations registered by Redpath and Eerdmans when to his knowledge there were others, and when his attention had been publicly called to this fact?

2. Why did Dr. Skinner put forward an argument based on that degree of divergence when he well knew that he had not stated the full facts?

I proceed with his discussion. He continues:—

"In spite of the confident assertions of Dahse (309) and Wiener (131 f.) there is not a single instance in which LXX is 'demonstrably' right against Massoretic Text. It is readily conceded that it is probably right in a few cases, but there are two general presumptions in favour of superior fidelity of the Massoretic tradition. Not only (*a*) is the chance of purely clerical confusion between $\overline{\kappa\varsigma}$ and $\overline{\theta\varsigma}$ greater than between יהוה and אלהים, or even between ׳ and א׳, and (*b*) a change of divine names more apt to occur in *translation* than in *transcription*, but (*c*) the distinction between a proper name יהוה and a generic אלהים is much less likely to have been overlooked in copying than that between two appellations *κύριος* and *θεός*. An instructive example is iv 26, where LXX *κύριος ὁ θεός* is 'demonstrably' wrong" (*loc. cit.*).

Dr. Skinner's statement that "there is not a single instance in which LXX is 'demonstrably' right against Massoretic Text" would have had more weight if he had attempted to meet the facts and arguments that have been advanced. Thus he makes no effort whatever to deal with xvi. 11. Moreover, it is worth noting that he himself rejects the Massoretic text in favor of Versional readings when it suits him. On page 402 he writes of xxxi. 50, that the LXX *Elohim* must be adopted if the verse is rightly ascribed to E, and, as already

indicated, he adopts *Elohim* from a Syriac reading elsewhere; but other points in this discussion are of even more importance. In the *Expository Times* for May, 1909, the Rev. A. P. Cox drew attention to the fact that, in the Bibliotheca Sacra article to which Dr. Skinner is here replying, I had produced evidence to show that the versional variants *rest on divergent Hebrew texts,* and are not due to avoidance of the Tetragrammaton by the translators. Dr. Skinner evaded the point in his *Expository Times* reply, and accordingly in the July number of that paper, I drew attention to Genesis xvi. 11, where Septuagintal authorities are supported by a Hebrew MS., and continued:—

"Dr. Skinner says it is reasonable to expect that Jewish scribes would be more careful in this matter than Greek copyists. But this instance shows that the variant is a *Hebrew* variant, for the mistakes of *Greek* copyists could not possibly influence a *Hebrew* MS. I therefore submit that little reliance can be placed on this argument. For numerous other examples see pp. 128–130, 150 ff.;[1] and for a further body of evidence drawn from the support of other Versions, see pp. 130 f.[2] Once the fact that the Greek rests on Hebrew variants has been established in a number of cases, a presumption arises that it does so in other cases where no independent testimony is preserved; and a case is made for further investigation."

In view of all this, I ask:—

3. Why has Dr. Skinner entirely ignored the Hebrew variants and argued on the basis of causes purely internal to Greek MSS., although his attention had twice been publicly drawn to the fact that, in a number of passages, Greek variants are confirmed by Hebrew texts? His statement that in iv. 26 the Greek reading is demonstrably wrong leaves me unmoved, for

[1] I.e. of the Bibliotheca Sacra for January, 1909 = Essays in Pentateuchal Criticism, pp. 14 f., 36 f.

[2] *Op. cit.*, pp. 15 ff.

I had written of the LXX, "It has also in a number of cases preserved readings that are demonstrably inferior."[1]

Dr. Skinner next says that "in the present state of textual criticism it is impossible to determine in particular cases what is the original reading." This, again, would have had more weight if he had shown any signs of attempting to deal with the arguments of his opponents. That it is impossible in a very large number of cases is merely to repeat what I have already written in the article that has been cited so often; but solid reasons have been advanced for preferring Septuagintal readings in certain specified passages, and Dr. Skinner has made no attempt whatever to grapple with these.[2]

He then proceeds to argue on the basis of averages; but here his figures are hopelessly wrong. Thus he says that there are only 4 cases of κύριος and 6 of κύριος ὁ θεός for אלהים (10 in all). This figure 10 is now replaced by Dr. Schlögl's 59. It is, however, remarkable that Dr. Skinner, after some further discussion, writes: "There is force, however, in Gray's remark on a particular case (Num. p. 311), that 'wherever [ὁ] κς̄ appears in LXX it deserves attention as a possible indication of the original text.'" Why, if that be so, did not Dr. Skinner devote attention to those cases in Genesis in which, to his knowledge, the Septuagint read κύριος (e.g. Gen. xlviii. 15)? The omission is the more curious because on

[1] Bibliotheca Sacra, January, 1909, pp. 133 f. = Essays in Pentateuchal Criticism, p. 19.

[2] In noticing an article of mine in the Biblische Zeitschrift, Professor Göttsberger drew attention to three articles by the late Professor Vetter in the Theologische Quartalschrift, vol. lxxxv. (1903) pp. 12–47, 202–235, 520–547. I have now inspected these articles, and while I am of opinion that they contain some valuable hints, I think that certain general criticisms may be made on Professor Vetter's work: (1) He made no attempt to bring the evidence of extant Hebrew variants into consideration. Yet these form a very important element in weighing the value of the Sep-

this verse he quotes with approval Gunkel's note "in such cases the polytheist names all the gods he worships, the ancient monotheist all the names and attributes of the God he knows." If this be true, does it add nothing to the significance of B's variation? And was it no part of the duty of a "critical" commentator to take cognizance of such points?

Dr. Skinner next writes: "The documentary theory furnishes a better explanation of the alternation of the names than any other that has been propounded." He proceeds to argue against certain hypotheses of Redpath and Dahse with which I am not in agreement. Of the documentary hypothesis in general, I shall speak later. For the present, I wish to see how far it provides an explanation of the phenomena. On page xlix of the introduction, rules are laid down to account for J's using *Elohim* in certain instances. But the Commentary contains many admissions that are extremely damaging to the hypothesis. Thus, on page 2, we find a conjecture that there were two recensions of J's Paradise story in Genesis ii. and iii., marked respectively by *Elohim* and the Tetragrammaton, characterized as "plausible"; on page 74, Dr. Skinner is driven to admit of one of his artificial explanations of J's

tuagintal readings. (2) He treated the text of Dr. Swete's edition (i.e. the text of the best MS. available for any particular passage) as the text of the Septuagint. This procedure would not be defended to-day by any responsible authority. (3) He made no attempt to weigh considerations for or against particular readings in given passages. Such considerations may have a vital bearing on the larger question involved. (4) He did not compare the evidence of the different authorities in particular cases, but treated each by itself in separate compartments. (5) He started with a belief in the antiquity and correctness of the Massoretic text that cannot now be maintained. I am glad to have this opportunity of drawing attention to the care and thoroughness with which Professor Göttsberger performs the task of Old Testament bibliographer in the Biblische Zeitschrift.

avoidance of the Tetragrammaton, that "J's usage in such cases is not uniform, and it is doubtful what is the true explanation here"; page 125, after a reference to the preservation of iv. 25 f., brings us the following curious admission: "The circumstance shows on how slight a matter far-reaching critical speculations may hang. But for this apparently arbitrary decision of the redactor, the existence of a Sethite genealogy in J would hardly have been suspected; and the whole analysis of the J document into its component strata might have run a different course." On page 154, in the small-print note, vii. 8 and 9 are said to "present a mixed text," because, while the "distinction of clean and unclean points to J," "all other features (*Elohim*)," etc., point to P, in which document, however, "the verses are not wanted." On page 155, we read of viii. 1b, that "but for the name אלהים the half-verse might very well be assigned to J." On page 182, a passage (ix. 20–27) is given to J "in spite of אלהים in verse 27." On page 289, the Tetragrammaton in xvii. 1 is declared to be "either a redactional change or a scribal error." On page 320, the Tetragrammaton of xxi. 1b is "a scribal error." On page 328, xxii. 11, 14, go to E "in spite of" the Massoretic Tetragrammaton. On page 379, the Tetragrammaton in xxviii. 21b "shows that it does not belong to E; and in all probability the clause is to be omitted as a gloss. The apodosis then has the same unusual form as in xxii 1." On page 402, *Elohim* (of the LXX) "must be adopted if the verse [xxxi. 50] is rightly ascribed to E." On page 412, we learn that xxxiii. 1–17 "are rightly assigned in the main to J, in spite of the fact that the only divine name which occurs is אלהים in 5b, 10, 11." Yet "in these verses we must recognise the hand of E; and, for all that appears, E's influence may extend further." Finally, on page 439, Dr. Skinner practically

throws up the sponge in dealing with the Joseph story. The Tetragrammaton, we learn, "occurs only in chapter xxxix (7 times); elsewhere אלהים is invariably used, sometimes in contexts which would otherwise be naturally assigned to J, though no reason appears why J should depart from his ordinary usage (e.g. xlii 28). It may not always be safe to rely on this characteristic when it is not supported by other indications"! So, in eleven chapters out of the fifty, "no reason appears" why the famous explanation is not explanatory, and in the remainder it is perpetually breaking down.

Dr. Skinner's last point in this connection is stated as follows:—

"Nevertheless the opinion can be maintained that the Massoretic Text is far superior to the Versions, and that its use of the names is a valuable clue to the separation of documents. Truth is sometimes stranger than fiction; and, however surprising it may appear to some, we can reconcile our minds to the belief that the Massoretic Text does reproduce with substantial accuracy the characteristics of the original autographs. At present that assumption can only be tested by the success or failure of the analysis based on it" (pp. xxxvi f.).

That test will be applied in some measure hereafter: for the moment I wish to point to one matter that appears to me very significant. Time after time it happens that perplexing phenomena of the Massoretic text can be explained with supreme ease by the natural processes of textual corruption, and the Versions in very many cases come to the rescue. To this must be added the fact that the translation of the Septuagint is much older than the earliest known Hebrew MS. It is by no means certain that the ultimate judgment of specialists will favor the Massoretic Pentateuch against the Septuagintal. On the contrary, recent investigations lead me to incline to the opinion that in the long run the latter may be shown to have a general superiority. What is certain, both from the Ver-

sions and extant Hebrew variants, is that the Massoretic text is merely one recension out of many that were current at one time or another. It should be added that Professor Toy has recently abandoned Astruc's clue. He writes as follows of my contention as to the textual evidence: "While this point calls for a more thorough examination than has yet been given it, the conclusion just stated is not out of keeping with the tone of modern criticism. As is well known, critics generally hold that our Hebrew text has suffered greatly from scribes and editors in the process of transmission. It is agreed that divine names have been changed in Chronicles, Psalms, and elsewhere. Why not in the Pentateuch?" [1]

To avoid all possibilities of misconception, I now repeat the three questions to which it is most essential that Dr. Skinner should supply answers:—

1. Why did Dr. Skinner mention only the number of deviations registered by Redpath and Eerdmans when to his knowledge there were others, and when his attention had been publicly called to this fact?

2. Why did Dr. Skinner put forward an argument based on that degree of divergence when he well knew that he had not stated the full facts?

3. Why has Dr. Skinner entirely ignored the Hebrew variants and argued on the basis of causes purely internal to Greek MSS., although his attention had twice been publicly drawn to the fact that in a number of passages Greek variants are confirmed by Hebrew texts?

Whatever the answers to these questions may be, it is obvious that the documentary theory is mortally wounded when its exponents do not meet the facts and arguments publicly advanced against them. The theory may stagger on for a

[1] The Christian Register, April 28, 1910.

while, owing to the momentum it has already gained. Such books as Dr. Skinner's may serve to delay the recognition of the truth in certain circles. More than that they cannot do for not merely is truth sometimes stranger than fiction: in the long run it is always stronger. *Magna est veritas, et praevalebit.*

In treating of Dr. Skinner's presentation of the documentary theory, I shall confine myself to the main Genesis phenomena, although much of his case rests on other considerations. My reason is that most of these have already been dealt with in other publications. For example, anybody who has read the sixth chapter of "Essays in Pentateuchal Criticism" (which appeared in the Bibliotheca Sacra for October, 1909) will greet with hilarity this sentence of Dr. Skinner's: "It is particularly noteworthy that the profane, as distinct from the sacrificial, slaughter of animals, which even the Deuteronomic law treats as an innovation, is here carried back to the covenant with Noah" (p. lx). The real pillars of the hypothesis have already been destroyed. It is the documentary theory in the book of Genesis that we have to consider. Of this, Dr. Skinner writes in his preface:—

> "It has to be remembered that the analytic process is a chain which is a good deal stronger than its weakest link, that it starts from cases where diversity of authorship is almost incontrovertible, and moves on to others where it is less certain; and it is surely evident that when the composition of sources is once established, the slightest differences of representation or language assume a significance which they might not have apart from that presumption" (pp. viii f.).

That is an excellent statement of certain higher critical fallacies: and I must try and point them out as clearly as I can.

1. The statement that "the analytic process is a chain" begs the question. Quite apart from the objection to the meta-

phor — and I shall endeavor to suggest a happier one hereafter — there is a very strong objection indeed to the main idea. It does not follow from an analysis of the first three chapters of Genesis, that an attempt should be made to dissect the last eleven. There may be two or more creation stories and only one Joseph story. How many creation stories and how many Joseph stories there are constitute questions which it may or may not be possible to answer after investigation; but the number is not necessarily or even probably the same in the two cases.

2. The fact that there are cases in Genesis where "diversity of authorship is almost incontrovertible" does substantially nothing to help the documentary theory, for it is not to be supposed that the author of the Pentateuch was guilty of free invention for the whole pre-Mosaic period. Let me take a concrete instance. (It is one that I have quoted before in the Bibliotheca Sacra, and that Dr. Skinner has not ventured to tackle, although it occurred in the article to which he refers, and although I carefully confronted him with it in the Expository Times for July, 1909.) In x. 19 we read the words "As thou comest to Sodom and Gomorrah and Admah and Zeboiim." Such language could have originated only when the places named were in existence. They were destroyed in the time of Abraham. The verse cannot therefore be later than that period. Dr. Skinner assigns it to J, who "will hardly be earlier than the 9th" century (p. liv). That is to say, that Dr. Skinner is probably about eleven hundred years out. It is "almost incontrovertible" that this verse is not by any writer who could narrate, say, the Joseph story: for it could have originated only before the birth of Joseph. Now what has happened in this case? First, the documentary theorists have grouped it with a number of other passages which must be

from later hands. Secondly, they have dated it eleven hundred years too late. Thirdly, they have treated later compositions (e.g. the song of Deborah, which cannot have been written before the events to which it relates) as being earlier than this very ancient passage. Why have they done these things? Because they held that the analytic process was a chain, and that consequently a number of continuous documents could be recovered mainly on the basis of the Divine appellations. Here then an "almost incontrovertible" "diversity of authorship" hoists the critics with their own petard. But, once it is proved that compositions long precedent to the time of Moses are included in Genesis, no presumption in favor of a documentary theory such as that supported by Dr. Skinner arises. There might have been two or two hundred creation stories in circulation before the days of Moses, but this proves nothing. There is no evidence whatever of a late origin of the creation stories. In ii. 14 we perhaps read of the Tigris as flowing "east of Ashur." Professor Gressmann has pointed out that this was only true before 1300 B.C., for about that date the ancient capital of Assyria on the right (west) bank of the Tigris was replaced by Kalchi, on the left (east).[1] If, therefore, the translation "east" be correct, this passage also must be pre-Mosaic, since after 1300 B.C. the Tigris was on the west of Ashur. In point of fact, there is legal evidence to the same effect; for, as will presently be seen, the law of murder in the case of Cain is shown by the comparative evidence to be very early. I shall return to the question of dating hereafter.

3. It follows, from what has been said, that it is no sufficient justification of the higher critical procedure to say that the analytic process "moves on" to cases where diversity of

[1] Archiv für Religionswissenschaft, vol. x. (1907) p. 347.

authorship is "less certain." The critical theory should rather be likened to a string of beads. If the string be snapped in not more than one hundred and eighty-nine places the beads will fall. Many of them may be lost or destroyed: some may be strung together with other beads on a fresh thread, and formed into a gewgaw of entirely different pattern, purpose, and appearance from the original string.

4. "It is surely evident that when the composition of sources is once established, the slightest differences of representation or language assume a significance which they might not have apart from that presumption." The chief part of this sentence has been answered in the foregoing paragraphs. It is, however, necessary to point out that the fallacies already exposed are here admitted to import into "the slightest differences of representation," a "significance which they might not have apart from that presumption." In other words the significance goes by the board with the presumption.

It is at this point that Dr. Skinner's claim as to the success of his analysis (omitted from the preceding discussion of the Divine appellations) should be quoted.

"One has but to read consecutively the first three chapters of Genesis, and observe how the sudden change in the divine name coincides with a new vocabulary, representation, and spiritual atmosphere, in order to feel how paltry all such artificial explanations are in comparison with the hypothesis that the names are distinctive of different documents. The experience repeats itself, not perhaps quite so convincingly, again and again throughout the book; and though there are cases where the change of manner is not obvious, still the theory is vindicated in a sufficient number of instances to be worth carrying through, even at the expense of a somewhat complicated analysis, and a very few demands on the services of a redactor to resolve isolated problems" (p. xxxvi).

It is possible to test this theory in many different ways. (1) The involuntary admissions of Dr. Skinner himself may be quoted. (2) His clues may be taken singly and it may be

shown how he has to abandon them one after another and introduce the wildest hypotheses in order to get through at all. (3) The narrative may be examined to see whether the theory is probable or tears asunder what cannot be separated. (4) The evidence of the Versions which so often show the true origin of the phenomena sought to be explained by the documentary theory may be adduced with the result that passages supposed to belong to the earliest sources are seen to be the additions of late glossators and the unglossed text appears to be unitary. (5) The historical and comparative evidence which demolishes the theory may be adduced.

Other tests could be suggested: but this is an article, not a treatise, and it is impossible to cover all the ground. It will be sufficient to give some samples of each of these methods with references which will enable the reader to supplement this article for himself — especially as this very claim of Dr. Skinner's contains the admissions that "there are cases where the change of manner is not obvious," that the documentary "experience" which "repeats itself" does so "not perhaps quite so convincingly," and that the analysis is "somewhat complicated."

At this point it is necessary to advert to Dr. Skinner's treatment of Dr. Orr. The latter's fascinating volume on "The Problem of the Old Testament" is well known. Dr. Skinner has read it: and it is difficult to think that he has not been considerably influenced by it in the admissions he is driven to make about J and E, but he objects to Dr. Orr's hypothesis. My own view is that Dr. Orr's book points to a far more conservative position than that of its author as the only one tenable. I do not agree with him in accepting the documentary theory at all, nor can I concur in his dating. In fact, his work is very valuable; but to my mind it attains its full force only

when it is coupled with the tests (4) and (5) above, which lead to an entirely different solution. Hence in so far as Dr. Skinner criticizes Dr. Orr's documentary theory I agree with him: in so far as he refuses to accept Dr. Orr's view of the futility of the JE analysis I disagree with him and clinch the matter with my own new materials.

I begin then with Dr. Skinner's independent admissions about J and E:—

"When we compare the two documents, the first thing that strikes us is their close correspondence in outline and contents. The only important difference is that E's narrative does not seem to have embraced the primitive period, but to have commenced with Abraham. But from the point where E strikes into the current of the history, there are few incidents in the one document to which the other does not contain a parallel. What is much more remarkable, and indeed surprising, is that the *manner* of narration changes in the two documents *pari passu*. Thus the transition from the loose connection of the Abraham legends to the more consecutive biography of Jacob, and then to the artistic unity of the Joseph stories, is equally noticeable in J and in E. It is this extraordinarily close parallelism, both in matter and form, which proves that both documents drew from a common body of tradition, and even suggests that that tradition had already been partly reduced to writing" (pp. xliii f.).

"J presents, on the whole, a more uniform literary texture than E. It is generally allowed to contain the best examples of pure narrative style in the O. T.; and in Genesis it rarely, if ever, falls below the highest level. But while E hardly attains the same perfection of form, there are whole passages, especially in the more ample narratives, in which it is difficult to assign to the one a superiority over the other. J excels in picturesque 'objectivity' of description, — in the power to paint a scene with few strokes, and in the delineation of life and character: his dialogues, in particular, are inimitable 'for the delicacy and truthfulness with which character and emotions find expression in them' (cf. Gen. xliv 18 ff.). E, on the other hand, frequently strikes a deeper vein of subjective feeling, especially of pathos; as in the account of Isaac's sacrifice (xxii), of the expulsion of Hagar (xxi 8 ff.), the dismay of Isaac and the tears of Esau on the discovery of Jacob's fraud (xxvii 35 ff.), Jacob's lifelong grief for Rachel (xlviii 7), or his tenderness towards Joseph's children (xlviii 14). But here

again no absolute distinction can be drawn; in the history of Joseph, *e.g.*, the vein of pathos is perhaps more marked in J than in E. Where parallels are sufficiently distinct to show a tendency, it is found in several instances that J's objectivity of treatment has succeeded in preserving the archaic spirit of a legend which in E is transformed by the more refined sentiment of a later age. The best example is J's picture of Hagar, the intractable, indomitable Bedawi woman (ch. xvi), as contrasted with E's modernized version of the incident (xxi 8 ff.), with its affecting picture of the mother and child all but perishing in the desert. So again, E (ch. xx) introduces an extenuation of Abraham's falsehood about his wife which is absent from the older narrative of J (xii 10 ff.).

"It is not surprising, considering the immense variety of material comprised in both documents, that the palpable literary differences reduce themselves for the most part to a preference for particular phrases and turns of expression in the one recension or the other" (pp. xlvii f.).[1]

"The redactors have done their work (in Genesis) with consummate skill and care, and have produced a consecutive narrative whose strands it is often difficult to unravel" (p. lvi).

Certainly these passages are remarkable. Dr. Skinner is so impressed with the close correspondence of his two supposititious documents that he is driven to suggest that both drew on a tradition that "had already been partly reduced to writing." I will next quote his reply to Dr. Orr:—

"What reasons, then, hinder us from deserting the critical view, and coming over to the side of Dr. Orr? In the *first* place, the difference between J and E is *not* confined to the divine names. The linguistic evidence is very much clearer than Dr. Orr represents;[2] and differences of conception, though slight, are real. . . . In the *second* place, J and E consist largely of duplicate narratives of the same event. It is true, this argument is lost on Dr. Orr, who has no difficulty in conceiving that Abraham twice told the same lie

[1] In other words, no criterion can be laid down which Dr. Skinner does not immediately contradict, as in the foregoing extracts. As to the supposed superior antiquity of J, he is driven to admit (on p. liii) that "E has occasionally preserved the more ancient form of the tradition." Other critics hold E to be the older document.

[2] Nevertheless, I have not observed that Dr. Skinner has answered a single point made by Dr. Orr as to the linguistic evidence.

about his wife, and that his son Isaac followed his example, with very similar results in the three cases" (p. xli).

In reply, attention should be drawn to the following facts: (*a*) Dr. Skinner has made no attempt to meet in detail Dr. Orr's examination of the linguistic evidence and the differences of conception. For example, Dr. Orr's discussion on pages 233 ff. of his "Problem" conclusively breaks down Dr. Skinner's allegations as to dreams and night visions in E representing a more advanced stage of theological reflection (p. l). Or, again, compare Dr. Skinner's statement as to the "national feeling" in both sources (p. l) with Orr's (pp. 210 f.). (*b*) The textual evidence, in fact, disposes of the main differences of conception, and shows how the present troubles have arisen. Here I may refer to my articles on Joseph.[1] (*c*) With regard to duplicate narratives, it should first be noted that Dr. Skinner has misunderstood Dr. Orr, as the following passage shows: "This suggests, lastly, that even were the similarity of incidents as clear as is alleged, it would not necessarily prove different authorship. The same author might find varying narratives in the traditions or sources from which he drew, and might *himself* reproduce them in his history." (Problem, p. 237.) (*d*) Moreover the argument is extraordinarily subjective. As I have pointed out elsewhere, the critics first deny the two water stories (Ex. xvii. and Num. xx.) to a single author, and then proceed to assign two such stories *each* to J, E, and perhaps also P.[2] In the case of some of the Genesis stories it will appear, to most minds, that the supposed duplicates are really narratives of

[1] *Supra*, Nos. 6 and 7.

[2] See Essays, pp. 104 f. The expression "and Meribah" in Exodus xvii. 7 is missing in the Vulgate, and is clearly a gloss. Compare Deuteronomy ix. 22; xxxiii. 8, where the place is called Massah only.

different events: but, however that may be, I can see no reason for supposing that the collection of traditions was made first by two schools of writers (J and E) independently, then by a redactor of JE, then by a P school, and lastly by a redactor who combined all these. It must be remembered that for all this there is not a scintilla of evidence.

To come back to Dr. Skinner's admissions. When we turn to the detailed discussion in the Commentary, matters are no better. After prolonged consideration, Dr. Skinner divides Genesis xxxiv. into two sources, which in utter perplexity he calls J^x and E^x, adding (p. 418), "This seems to me the best solution, though it leaves the dual recension, the amalgamation, and the Priestly redaction unexplained riddles"! On page 456, chapter xxxix., "with the exception of a harmonising gloss . . . . and a sprinkling of E variants," goes to J; but on the next page we read "This conclusion is partly confirmed by the literary phenomena [which are then cited]. It is somewhat disconcerting to find that none of these occur in the central section, 7–20; and Wellhausen positively assigns 6–19 to E." The phrases supposed to support this are quoted, and Dr. Skinner proceeds: "These are not decisive, and on the whole the material argument must be held to outweigh the dubious linguistic evidence," and so on. On page 465, we learn of another passage that "a satisfactory analysis cannot be given." On page 486 (chap. xlv.), "The *sources,* E and J, are here so intimately blended that a complete analysis is impossible," etc. Perhaps it will be sufficient on this part of the case to close with some admissions as to the Joseph story as a whole. "From the other patriarchal biographies it is distinguished first of all by the dramatic unity of a clearly conceived 'plot'. . . . To this higher unity everything is subordinated; the separate scenes and incidents merge naturally

into the main stream of the narrative, each representing a step in the development of the theme. . . . The close parallelism of J and E, together with the fact that the literary features enumerated above are shared by both, show that it had taken shape before it came into the hands of these writers, and strongly suggest that it must have existed in written form" (p. 440). When to this are added the admissions cited above, the breakdown of the Divine appellations, the breakdown (as will be shown hereafter) of the main clue for this section (Jacob and Israel), and the fact that the textual evidence, as shown in the preceding studies, not merely destroys the details of the analysis but also explains the real origin of the difficulties of the present text, it will be seen that the admission of the unity of the Joseph story is merely a question of time. *It must be remembered that this is the locus classicus for the JE analysis, which falls with the establishment of the unity of this section and the abandonment of the clue from the Divine appellations.*

Next I turn to examine some of the clues. It may be convenient to begin with that which is most important for the Joseph story, and collect some of Dr. Skinner's observations on the subject. On page xlix we read, "For the name *Jacob*, J substitutes *Israel* after xxxv 22 (except xlvi 5b); E consistently uses *Jacob* (except xlvi 2, xlviii 8, 11, 21 [l 25?]." It will seem to most people that there is nothing very "consistent" about a practice to which there are admittedly four or five exceptions in a very few chapters, but this is only the beginning of our experiences. On pages 438 f., we are told, "With regard to the composition of J and E, the most important fact is that the clue to authorship supplied by the divine names almost entirely fails us, and is replaced by the distinction between Israel and Jacob which as names of the

patriarch are characteristic of J and E respectively (exceptions are xlvi 2, xlviii 8, 11, 21, [1 25?]; xlvi 5b." I agree that this "replaces" the distinction between the divine appellations, but I go further and say that Dr. Skinner's statement is a good deal truer than he ever imagined; for we have here again the same self-contradictions, the same improbable divisions, the same uncertain attitude towards the textual evidence. On page 423, in the small print at the top, the only section in chapter xxxv. which can be assigned "purely" to J is 21, 22a, on the ground that "Israel" occurs twice, but *at the bottom of the same page* Dr. Skinner notes in his curious way that in verse 5 the LXX[1] has "Israel" for the Hebrew "Jacob." On page 427, in the small-print note on 22a, "Israel," we read, "The name, instead of Jacob, is from this point onwards a fairly reliable criterion of the document J in Genesis." Note that it is only "from this point onwards," and, even so, it has sunk to the level of "a fairly reliable criterion." On page 474 (chap. xlii.), in the small print *at the top*, "Jacob" is quoted to prove E's authorship of verses 29 and 36, but *at the bottom* it is noted that the Septuagint differs from the Massoretic text in omitting this very word in verses 1 and 4. On page 479, "the name Israel" in xliii. 6, 8, 11, is a "positive point of contact with J." On page 486, E appears from (*inter alia*) "Jacob" in xlv. 25, while "Israel" in verse 28 is an "indubitable trace" of J. Our "fairly reliable criterion" is obviously looking up in the world. On page 491, at the top of the page, it is still in good credit: "Israel" in xlvi. 29, 30, helps to prove "a continuous J narrative," in xlvi. 1a it vouches for J, while "Jacob" in verses 2, 5a, evidences E. But alas for fleeting glories! The

[1] I believe that when Dr. Skinner speaks of the LXX without further details, he only means the text of the Cambridge Septuagint.

bottom of the page witnesses a sad reversal of its fine position, for it becomes necessary to comment on the word "Israel" in verse 2, and Dr. Skinner is reduced to writing, "The word has crept in from verse 1 through an inadvertence of the redactor or a later scribe"! On page 492, Dr. Skinner chronicles the fact that the LXX omits "Jacob" on its second occurrence in verse 5 (where it had on the preceding page proved E's authorship). On page 501, in the small-print note on verse 27, we are told that "the verse is usually divided between J and P; but ישראל is no sure sign of J, since it denotes the nation." On pages 502, 503, there is some more shuffling, and in the small-print note on xlviii. 2b (pp. 503–504) the clue is abandoned: "2b is usually assigned to J because of Israel. But the clause comes very naturally after 2a; and as there are three other cases of confusion between the two names in this chapter (8, 11, 21), the name is not decisive." It seems unnecessary to follow Dr. Skinner further on this point. This clue, like others, is followed and abandoned when convenient. The whole analysis is a mass of the most arbitrary subjectivity. For the rest the textual evidence which completely disposes of it will be found in "The Answer of Textual Criticism to the Higher Criticism of the Story of Joseph."[1]

To take some more examples: On xii. 5 we are told in German — probably to make it more impressive — that "land of Canaan" is "an almost certain mark of P" (p. 245); but on page 474 we hear (in the vernacular) that "A peculiar feature of this and the following chapters is the name 'land of Canaan,' which is elsewhere in Genesis characteristic of P. From this and some similar phenomena, Giesebrecht and others had inferred a Priestly redaction of the Joseph pericope;

[1] *Supra*, pp. 35–38.

but the usage may be due to the constant and unavoidable antithesis between Canaan and Egypt," and we are further referred to page 438. Here we learn, with regard to this hypothesis of a priestly redaction, that "the cases in point have been examined by Kuenen, who rightly concludes that they are too few in number to bear out the theory of systematic Priestly redaction." Needless to say, the textual evidence on this phrase has not been considered. Again, when the lists of words are critically examined, they yield very curious results. Thus, to take merely Dr. Skinner's admissions in the lists themselves, we see the following on page xlix: Of J one expression is found "also in P," another in xlii. 1 "E?," a third שִׁפְחָה (of which more hereafter) in "xx 14, xxx 18 R: also common in P," a fourth occurs "in E and P once each," a fifth is found "in J about 40 times, in E about 6 times (in Gen.)." Clue after clue has to be abandoned, and the effect produced by the successive breakdowns of all these unsound arguments is cumulative. E's main list consists of *five phrases and idioms,* but then "a number of rare or archaic words or phrases," occurring sometimes only *once each in the whole Pentateuch,* are assigned to him to help him out. This sort of learned trifling is hardly likely to have influence with any sensible man.

As a final example, I take the stylistic argument on page 315 dealing with chapter xx., "the first continuous excerpt from E." First, of course, comes *Elohim,* verse 18, containing the Tetragrammaton, being turned into a gloss, though the narrative is incomprehensible without it. After what has already been said of this clue, it is only necessary to add that in verse 4 14 Hebrew MSS. have the Tetragrammaton. Then אמה for "maid-servant" (J שִׁפְחָה), but this breaks down because the latter word occurs in verse 14. Therefore in

that verse another gloss has to be postulated, "this being the only instance of שִׁפְחָה in an E context." But that is barely true. On page 389, we read (xxx.), "18aβ while correctly expressing the idea of E, contains the word שִׁפְחָה which E avoids; and is therefore probably redactional." The next proof is "לִבֵּב (לִבֵּן), verse 5"; but in Exodus xiv. 5, J uses לִבֵּב. That exhausts the more important stylistic clues, but we are referred to the notes on four other words and phrases. Of one of these, we read "only here in Hexateuch; E is addicted to rare expressions." Of the second, "'said regarding' is rare: 2 Kings xix 32, Jer. xxii 18, xxvii 19;" of the third "='permit' xxxi 7, Nu. xx 21, xxi 23, xxii 13 (E), Ex. xii 23 (J), iii 19 (R), Dt. xviii 14, Jos. x 19 (D):" of the fourth "as xviii 13, Nu. xxii 37; but cf Jos. vii 20. These are all the occurrences in Hexateuch." Joshua vii. 20 is given to J in the Oxford Hexateuch. Thus two of the four occur nowhere else in the Hexateuch, and the others are not exclusively E. Now I ask: Could a single one of those clues have a scintilla of probative force for any impartial mind?

These "stylistic peculiarities" are reinforced (?) by others. "The appearing of God in a dream is characteristic of E." I have already referred to Dr. Orr's refutation of this allegation, and Dr. Skinner's failure to meet it. "And the conception of Abraham as a prophet (7) is at least foreign to the original J (but see on xv 1)." I will just put by the side of that Dr. Skinner's statement on page 1: "Nor does the fact that Abraham, as a man of God, is called *Nabi* ["prophet"] (xx 7, cf Dt. xxxiv 10) necessarily imply that the figure of an Amos or an Isaiah was before the mind of the writers." And on xv. 1 we read of the Hebrew word for "vision": "Only Nu. xxiv 4, 16, Ezk. xiii 7. The *word* is thus not at

all characteristic of E, though the *idea* of revelation through dreams and visions undoubtedly is" (p. 278). I ask my readers to turn to the two verses in Numbers (which belong to J), and say whether "the idea of revelation through dreams and visions" is or is not present. Further on, on "the word of the LORD came" (in this very verse), Dr. Skinner writes: "The conception of Abram as a prophet has no parallel in J; and even E, though he speaks vaguely of Abram as a *Nabi* ["prophet"] (xx 7), does not describe his intercourse with God in technical prophetic phraseology." That clue is therefore valueless. Returning to chapter xx., we find Dr. Skinner laying stress on the fact that "Sarah is here conceived as a young woman capable of inspiring passion in the king." That is a good point — the only point he really makes: but it does not justify anything more than the view that this episode is probably misplaced; while, as will be seen hereafter, there is textual evidence against the present chronology of Genesis. Lastly, Dr. Skinner returns to the Divine appellations, and says this "is the beginning of a section mainly Elohistic, representing a cycle of tradition belonging to the Negeb and, in particular, to Beersheba." That argument also falls with Astruc's clue. That disposes of the case on chapter xx. It must be remembered that the effect produced by examining the critical contentions is cumulative. After a century and a half of destructive work, these critics are unable to produce a single clue that will bear examination to justify their treatment of this chapter; and this is merely typical of the analysis in general.

I now proceed to examine another argument in the light of two methods jointly — the consideration of versional evidence and of the argument from contexts. For this purpose it will be

well to take what Dr. Skinner apparently regards as one of the strongest portions of his theory — P's biography of Abraham. It is to be remembered that this portion of my discussion can be supplemented from Dr. Orr's "Problem," where numerous instances of the context argument will be found, and my own "Essays in Pentateuchal Criticism," as well as from the examination of the story of Joseph, to which reference has been made. It must be borne in mind in considering this biography, that Dr. Skinner is arguing against the view that P is a mere supplement — a view that I do not hold, as I reject *in toto* the analysis into documents. He writes, "No critical operation is easier or more certain than the separation of this work, down even to very small fragments, from the context in which it is embedded" (p. lvii). He admits (p. lix) that "in the sections on Isaac, Jacob, and Joseph, there are undoubtedly omissions which *we* can only supply from JE; and if we were to judge from these parts alone, the supplementary theory would be more plausible than it is. We miss, *e.g.*, accounts of the birth of Jacob and Esau, of Jacob's arrival in Paddan Aram, of his marriage to Leah and Rachel, of the birth of Joseph, of his slavery and elevation in Egypt, his reconciliation with his brethren, and perhaps some other particulars." This does not prevent Dr. Skinner, whose work is one mass of inconsistencies, from writing three pages later: "In the history of the patriarchs there seems no reason to suppose that he [P] had any other authorities than J and E. The general course of events is the same, and differences of detail are all explicable from the known tendencies of the Code." It appears, then, that the omissions not merely are such as "*we* can only supply from JE," but never could have been supplied in any other way at all. This, as usual, is supplemented by admissions in the Commentary (e.g. pp. 428 f., 438, etc.), but

it is with the supposed strength, not with the admitted weakness of the P theory that I desire to deal. Dr. Skinner writes:—

"....Here is literal translation of the *disjecta membra* of P's epitome of the biography of Abraham, with no connexions supplied, and only one verse transposed (xix 29): xii 4b 'Now Abram was 75 years old when he went out from Harran. 5 And Abram took Sarai his wife, and Lot his brother's son, and all their possessions which they had acquired, and all the souls whom they had procured; and they went out to go to the land of Canaan, and they came to the land of Canaan. xiii 6 And the land could not bear them so that they might dwell together, for their possessions were great, and they were not able to dwell together. 11b So they separated from one another: 12ab Abram dwelt in the land of Canaan, and Lot dwelt in the cities of the Oval. xix 29 And when God destroyed the cities of the Oval, God remembered Abraham, and sent Lot away from the midst of the overthrow, when he overthrew the cities in which Lot dwelt.— xvi 1 Now Sarai, Abram's wife, had borne him no children. 3 So Sarai, Abram's wife, took Hagar the Egyptian, her maid, after Abram had dwelt ten years in the land of Canaan, and gave her to Abram her husband for a wife to him. 15 And Hagar bore to Abram a son, and Abram called the name of his son whom Hagar bore to him Ishmael. 16 And Abram was 86 years old when Hagar bore Ishmael to Abram.' [Then follows chap. xvii. in full.] . . . The narrative is resumed in xxi 1b [but Dr. Skinner has to explain the Tetragrammaton in this verse as a scribal error, and I therefore correct his translation in this respect]. 'And *God* did to Sarah as he had spoken, 2b at the appointed time which God had mentioned. 3 And Abraham called the name of his son who was born to him, whom Sarah bore to him, Isaac. 4 And Abraham circumcised Isaac his son when he was 8 days old, as God had commanded him. And Abraham was 100 years old when Isaac his son was born to him. xxiii 1 And the life of Sarah was 127 years; 2 And Sarah died in Kiryath Arba, that is Hebron, in the land of Canaan.'. . . [Then chap. xxiii. in full, followed by] 'xxv 7 And these are the days of the years of the life of Abraham which he lived: 175 years; 8 and he expired. And Abraham died in a good old age, an old man and full [of years] and was gathered to his father's kin. 9 And his sons Isaac and Ishmael buried him in the cave of Machpelah, in the field of Ephron the son of Zohar, the Hittite, which is opposite Mamre: 10 the field which Abraham bought from the sons of Heth: there was Abraham buried, and

Sarah his wife. — 11 And after the death of Abraham, God blessed Isaac his son.' [Dr. Skinner then says:] The reader can judge for himself whether a narrative so continuous as this, every isolated sentence of which has been detached from its context by unmistakable criteria of the style of P, is likely to have been produced by the casual additions of a mere supplementer of an older work" (p. lviii).

I fancy that there are a good many other points on this curious production which the reader can and will judge for himself. If from any biography isolated sentences are snipped off relating to successive episodes, some measure of continuity must result. Take a long life of any modern statesman, cut out sentences relating to his birth, marriage, death, and one or two episodes, print them consecutively, and you will necessarily have a continuous narrative *of a sort*. But it does not follow that it will be in the slightest degree probable that the continuous narrative is original.

In this case there are three glaring incredibilities, to start with: (1) It is contrary to the whole genius of Hebrew literature to compose such a meager, dry, desiccated, colorless narrative as this. There is nothing like it in the Old Testament. (2) The supposititious writer to whom it is assigned is supposed to be characterized by prolixity and redundancy, which makes the theory that he of all people should have produced such a composition still more incredible. (3) The omissions are such as to make the narrative unintelligible. For example, "God . . . . sent Lot away." How or whither? Such a statement cannot stand alone. Nor does even Dr. Skinner suppose that it can, for he writes of this verse on page 310: "The dependence of P on J is very manifest." That of course is fatal to his hypothesis, for if the dependence is very manifest, there is no independent document P, which is what Dr. Skinner undertook to prove. He cannot both eat his cake and have it. Abram called his son's name Ishmael.

Why? No reason whatever appears. Again, there is a gap as to Abraham's prosperity. If "after the death of Abraham, God blessed Isaac his son," the narrative must have explained somewhere that during his lifetime God blessed the father.

With regard to the marks of style by which this strange narrative is separated, it would of course be possible to show their futility in detail, but after what has already been said that is perhaps unnecessary. Our old friends "*Elohim*," "land of Canaan," etc., would come in again, and they would be joined by a number of auxiliaries of the same caliber. I turn to the effect of this separation on the general narrative and to some versional evidence.

The result of separating xii. 4b, 5, from the context is to leave a statement in verse 6 that Abram "passed through the land." This with only the data of J must refer back to "thy country," but the end of the sentence shows this to be nonsense. Hence something in the nature of the excised passage must be supplied to make J's narrative intelligible. In the next passage (xiii. 6) the Septuagintal MSS. E, a, c_2, rightly omit the words "and they could not dwell together," assigned to J. Here again the J context demands P for its explanation: "And there was a strife between the herdmen of Abram's cattle and the herdmen of Lot's cattle." Why? Obviously because the land could not suffice for both. The explanation lies in P's "And the land was not able to bear them, that they might dwell together: for their substance was great." Then comes xiii. 11b. On this, Dr. Skinner admits "11b, in spite of its resemblance to 9aβ, must be assigned to P, being necessary to the completeness of that account, and because it disturbs the connexion of 11a with 12bβ," i.e. this verse is given to P not on any evidence, but because of the exigencies of the

theory.[1] The section in its original form reads perfectly, and there is no reason for tearing it asunder. We have already seen that xix. 29 cannot stand alone, and need therefore not linger over the textual evidence. Next comes xvi. 1a. Its severance leaves J to begin with the impossible "And she had a handmaid." Who was "she"? J's sentence will not read without the opening. In verse 3 the Vulgate omits "Sarai Abram's wife" and also both the other occurrences of "Abram." The best MS. of the LXX exhibits a text that has been glossed, as is proved by the impossible λαβοῦσα.... καὶ ἔδωκεν. The variants suggest that it may originally have read "And she took Hagar the Egyptian, her handmaid, and gave her to her husband to be his wife." This, supported as it is in part by the Vulgate, appears to me to be correct. It is important to notice that the schematic chronology "after Abram had dwelt ten years in the land of Canaan" is unknown to this text.[2] The marks of P's style are, in fact, the work of glossators, as in so many other cases. Next, the removal of xvi. 15, 16, leaves Ishmael unborn in JE, where he makes an unexpected appearance in xxi. 9. But here again the textual evidence is very important. *The two MSS.* (d, p) *that omitted the previous chronological notice in xvi. 3 also omit the whole of verse 16.* Other Septuagintal variants here recorded in the larger Cambridge Septuagint point to other chronology. As to verse 15, the Vulgate reads "And Hagar

[1] Consequently Dr. Skinner's allegation that "every isolated sentence has been detached from its context by unmistakable *criteria* of the style of P" cannot be supported.

[2] How important the chronological scheme is to the P analysis may be seen on page lxii, where Dr. Skinner writes (after the admission quoted before as to the dependence on J and E): "But the important facts are that nearly the whole of the history, both primitive and patriarchal, is reduced to a meagre summary, *with little save chronological significance*," etc. (my italics).

bare Abram a son: and he called his name Ishmael." Its omissions are confirmed by Septuagintal MSS. Again, in xvii. there are significant variations — especially in the age of Ishmael (ver. 25), who, according to another reading, was three, not thirteen, years old (compare chap. xxi. 14, 15, 18), but it is impossible, for reasons of space, to treat of this chapter now, and we come to xxi. 1b. The Septuagintal MS. n omits this half-verse, probably rightly. The Vulgate cuts it down to the words "and did as he had spoken," which, however, may be a paraphrase. Neither of these texts will suit Dr. Skinner. In 2b "at the set time" is missing in two Septuagintal MSS., and the LXX substitutes the Tetragrammaton for "God." Verse 3 again is omitted altogether by one Septuagintal MS. — possibly by accident — and is in any case heavily glossed, as the other variants show. It is perhaps unnecessary to continue these somewhat dry details. It is of course quite possible to continue the refutation, but these samples are sufficient to show what can be done. No textual critic who examines these instances carefully can doubt that Dr. Skinner's method is radically unsound.[1]

Perhaps it may be said that I am merely substituting one set of hypotheses for another. That charge would be quite unfair, for it would overlook the important fact that I am careful to follow the evidence. The Vulgate is a well-known translation of the Bible that to this day possesses great authority. So is the Septuagint. But J and E and P and D are

[1] The facts stated above respecting variants to the chronological notices are of great importance. It turns out that the extraordinary chronological embarrassments of Genesis are in part due to the work of a late annotator. See No. 4, *supra*. For the present purpose, however, it is to be noted that these readings are of vital consequence, not merely to the question of the composition of Genesis, but also to any estimate of its historical character, which has been attacked largely on chronological grounds.

mere conjectural figments of whom history knows nothing — the creations of some very subjective minds which have ignored the available evidence. How subjective and arbitrary the whole theory is, may be very strikingly exemplified from a statement that of thirty-one passages in JE in which Kraetzschmar (another member of the school) finds a particular idea, all but three are assigned by Dr. Skinner to the Deuteronomic redaction (p. 284). That is a very interesting illustration of the way in which the documentary theory feeds on itself.

I come now to the last test I propose to apply — the dating. We have already seen that x. 19 (certainly) and ii. 14 (probably) contain passages that must be pre-Mosaic. It is, moreover, to be noted that no post-Mosaic background can possibly be found for many of the narratives of Genesis, e.g. that of Noah's drunkenness (Skinner, p. 187). With regard to Genesis xiv., again, Dr. Skinner has to admit "some traditional (perhaps documentary) material" (p. 272). But these considerations do not stand alone. After showing the compatibility of the patriarchal narratives with Oriental archæology, Dr. Skinner adds:—

"All this is of the utmost value; and *if* the patriarchs lived in this age, then this is the background against which we have to set their biographies. But the real question is whether there is such a correspondence between the biographies and their background that the former would be unintelligible if transplanted to other and later surroundings. We should gladly welcome any evidence that this is the case; but it seems to us that the remarkable thing about these narratives is just the absence of background and their general compatibility with the universal conditions of ancient Eastern life" (pp. xvi f.).

That is to say, that what is now wanted is more evidence that will not fit any but early conditions. Some evidence of that nature can be provided by comparative jurisprudence. If

Noah's law of homicide is shown by the comparative method to be much earlier than Exodus or Numbers or Deuteronomy, there is an end alike of the documentary hypothesis which would make it a post-exilic production — though the Babylonian law of homicide was quite different — and of the historical theories that depend on this hypothesis. Such evidence is in fact forthcoming. I showed in the London *Churchman* for January, 1908, that the legal evidence strongly confirmed the book of Genesis. It is impossible to transcribe the whole of that article, but the following passage may be quoted:—

"But, then, may it not be argued that the legal conditions were common to the post-Mosaic period and the patriarchal age? Can it not be said that in legal matters 'the narratives are more or less coloured by the ideas of later ages?' The answer — which is important — is in the negative. There are, of course, no sufficient materials for writing a history of Hebrew law in Biblical times, but, so far as it goes, the evidence of the Book of Genesis will not fit in with the critical theories. Perhaps the most interesting case is the conveyance of the field of Machpelah to Abraham, a passage attributed by the critics to the supposititious exilic or post-exilic 'P.' Like every other legal transaction in the Book of Genesis, and unlike every Babylonian legal tablet, it is conspicuous for the absence of writing. When it is contrasted with the very modern form of conveyance with which we meet in Jeremiah xxxii., it at once becomes evident that it represents a much more primitive stage of legal development. The instance is peculiarly important, because we are asked to believe that 'P' (who is supposed to have been very much under Babylonian influence) forged or inserted the narrative of the purchase of the cave of Machpelah for the purpose of giving validity to the claim of the Israelites to the land of Canaan. Now, had that been so, it is evident that a writer who, according to the critics, is distinguished by a peculiarly lawyer-like style would never have failed to mention every particular that was material to the complete validity of the transaction according to the ideas of his own age. Nor can it be said that he would have been deterred by any scantiness of information or any scruples as to the truth, for *ex hypothesi* he was an admitted master of fiction, wholly devoid of anything that we should regard as historical conscience.

"The law of homicide also presents us with some interesting

testimony. The story of Cain the outlaw, subject to death at the hands of any man who met him, reveals a legal institution well known to students of early law.[1] But here it is important to notice that it brings us face to face with an earlier state of law than that postulated by the Mosaic legislation. The blood feud is not yet recognized. It is not yet the duty of the avenger of the blood alone to exact retribution for the crime. The murderer is expelled from the religious and social community, and left as an outcast from the peace and protection of the tribe, to encounter single-handed any stranger or enemy — the terms are synonymous in early times — he may meet. Nor is the position much better for the higher critics if we turn to 'P': 'Whoso sheddeth the blood of man, by man shall his blood be shed.' That is not the law of 'JE' or 'D' or 'P' with the place appointed for refuge in certain cases of homicide. The distinction between murder and other classes of homicide has not yet been drawn.[2]

"Another matter that has probably never been considered by any higher critic is the history of the *patria potestas* — the legal power of a father over the children. As at Rome, so among the ancient Hebrews, the *jus vitae necisque* was at first quite unlimited.[3] We have several instances of this, the most striking being Judah's conduct to his daughter-in-law (xxxviii. 24), who had passed into his *potestas* by her marriage, and Reuben's treatment of his children (xlii. 3). It is to be noted that in neither case is there any suggestion of a trial. The *paterfamilias* acts with plenary authority. But in both Rome and ancient Israel this power underwent curtailment. It is true that the power to sell or pledge children endured to the end of Old Testament times (Neh. v. 5), and probably the paternal power was in many ways extremely extensive till a very late period,[4] but the family jurisdiction in cases of wrong-

[1] See Post, Grundriss, vol. i. pp. 163–165, 352–354; vol. ii. p. 248; Kulischer, Zeitschrift f. vergl. Rechtsw., vol. xvii. p. 3; Studies in Biblical Law, p. 105.

[2] Here, again, there are universal parallels to the course of legal history as depicted in the Bible. The distinction is elsewhere later than the treatment of all cases of homicide as being on the same footing. See Post, *op. cit.*, vol. i. pp. 237 f.; vol. ii. pp. 333 f.

[3] For a succinct account of the history of the *patria potestas* with the *jus vitae necisque* at Rome, see Moyle on Justinian Institutes, vol. i. tit. 9. The parallel is sometimes extremely close. There are countless parallels among other peoples.

[4] Especially in religious matters. The power to sacrifice children appears to have long survived.

doing had been greatly curtailed before the days of Moses. I am not thinking merely of the provisions of Deuteronomy xxi. 18–21. If they were all we had, the critics might reasonably suggest that the relative dates of 'D' and 'JE' would account for the alteration. But it is clear that in Exodus xxi. 15, 17, offences against parents are no longer regarded as matters for the domestic tribunal, but are included within the competence of the ordinary courts of elders. Times have changed since the days of Judah and Tamar."

At this point I leave the analysis, having tested it sufficiently for the purpose of this article. It is interesting to note that in other matters Dr. Skinner is as unreliable as in the instances we have considered. For example, speaking of J and E, he writes (p. 1): "A very singular circumstance is that while both frequently record the erection of altars by the patriarchs, they are remarkably reticent as to the actual offering of sacrifice: E refers to it only twice (xxii, xlvi 1), and J never at all in the patriarchal history (contrast iv 3 ff., viii 20 ff.)." With this we may compare page 246. Yet, in xxxi. 54, E records a sacrifice, and we read of "feasts" in xix. 3; xxi. 8; xxvi. 30 (the covenant of Isaac and Abimelech), and xxix. 22. Presumably there were sacrifices in some of these cases. Certainly Dr. Skinner, who holds that profane slaughter was a Deuteronomic innovation, would say so. Further, we are repeatedly told of building altars and calling on the name of the LORD. Does Dr. Skinner really suppose that this was done without sacrifice? Another choice example of his reliability is to be found in his note on the word for drink-offering in xxxv. 14 (p. 425). He writes: "2 Kings xvi 13, 15 is the only other instance of the word before Jeremiah . . . . its legalisation for the worship of the temple appears in Ezk. xlv 17 and P." As his reference to Kings shows that it was properly and legally used in the Temple long before the date to which he would assign Ezekiel or P, the note is an admirable instance

of the confusion in which his theory involves him. Again, on page 420, in connection with circumcision, he speaks of "the fact that both J (Ex. iv 25) and E (Jos. v 3 ff.) record its introduction in the age of the Exodus." It is scarcely necessary to say that his references do not support his allegation.

Finally, something must be said on Dr. Skinner's views of the historical or rather unhistorical character of Genesis. A large part of his introduction is devoted to these. The foregoing discussion is fortunately destructive of a considerable portion of them. If it be the case that we have in Genesis traditions that go back at least as far as the time of Abraham, it does not matter that "the historical memory of the pre-Islamic Arabs was so defective that all knowledge of great nations like the Nabataeans and Thamudites had been lost within two or three centuries" (p. vi). Or perhaps it would be more correct to say that such parallels provide a foil to display more fully the superiority of Genesis. They also show how hard the critics have worked to discredit the Bible. Again, it is quite immaterial whether or not Genesis relates to "great public and political events." An inquiry into the historical character of Genesis means an inquiry whether that book contains a trustworthy account of actual happenings. If Abraham lived as is recorded in that book, then the life of Abraham is a historical fact, and it is none the less historical because Abraham was not a king, a general, or a politician. Genesis does not claim to narrate the fortunes of a king Abraham: it deals with the life story of a man of that name. All happenings constitute history. Nor again is there any force in the argument based on chapter xxiv. of which Dr. Skinner writes: "We may assume that the scene at the well of Harran actually took place; but that the description owes its graphic power to a reproduction of the exact words spoken and the precise actions

performed on the occasion cannot be supposed" (p. vi). Of course not: probably the exact words spoken would have brought the scene very much less vividly before us than the actual narrative that we have. But that does not impair the historical character of the book. Those who wish to comment on the narrative would do well to consider that a literary artist seeks to convey a true picture of the events that form his subject-matter. Just as a portrait may faithfully represent the original though it differs in colors, size, etc., so may a narrative of this character reproduce the interview with more fidelity to its true import and spirit than a verbatim report of the actual dialogue. The author's duty is to bring the scene before our eyes as graphically as possible, provided that in so doing he does not introduce any untrue element. He too must take account of perspective. To put a narrative into literary form is not to falsify it. "The final test . . . . is the hard matter-of-fact test of self-consistency and credibility" (p. vi). Here distinctions must be drawn between various parts of Genesis. With regard to the earlier narratives, Dr. Skinner's views might have been entitled to more respect if he had shown any power of sympathizing with the methods of the narrative or any acquaintance with Dr. Wright's "Scientific Confirmations of Old Testament History."

How incapable he is of understanding the genius of the book may perhaps be illustrated by quoting his note on "the herb of the field" in iii. 18: "The creation of this order of vegetation has not been recorded by J. Are we to suppose that it comes into existence simply in consequence of the earth's diminished productivity caused by the curse? It seems implied at all events that the earth will not yield even this, except under the compulsion of human labour" (p. 84). Sympathy with a narrator's spirit and methods of expression is

indispensable to an intelligent exposition of his meaning, and this quality Dr. Skinner unhappily does not possess. Hence while some of his criticisms on the earlier chapters contain a measure of truth, we cannot look to him for any real appreciation of the meaning of the book. And with regard to the patriarchal traditions, we have seen even in this article how a sifting of the text may remove "impossible situations." There may be some discrepant traditions in the book, but all speculations on this subject are premature till we know more of the textual history. I have seen too many problems that seemed insoluble yield to some surprisingly simple solution, to have any faith at all in the complicated guesswork that appeals to Dr. Skinner's credulity. A final example of this may be taken from the discussion of chapter xxxviii.: "It is obvious that the legend belongs to a cycle of tradition quite independent of the story of Joseph. The latter knows of no separation of Judah from his brethren, and this record leaves no room for a reunion [! H.M.W.]. Although P, who had both before him, represents Judah and his sons as afterwards accompanying Jacob to Egypt (xlvi 12), there can be no doubt that the intention of this passage is to relate the permanent settlement of Judah in Palestine"! (p. 450). Lucubrations of this kind need no refutation. It is only necessary to read the chapter in order to see that it refers to a family incident and is quite innocent of any "intention to relate the permanent settlement" of a tribe.

IX

THE HIGHER CRITICAL QUANDARY (1)

A CORRESPONDENCE WITH DRS. BRIGGS AND DRIVER

[From the *Bibliotheca Sacra*, July, 1911.]

In the *Expositor* for September, 1910, is an article by the Rev. Professor Alex. R. Gordon, D.Litt., Montreal, entitled "Skinner's 'Genesis.'" The following sentences occur in it:—

"He [Dr. Skinner] is frank even to a fault, and appreciative of every honest effort to get nearer to the original. . . . The general superiority of the Massoretic text he valiantly defends . . . against the strangely perverse attempt of 'the more recent opposition' represented by Dahse and Wiener to prove the Massoretic text 'so unreliable that no analysis of documents can be based on its data.' In his most caustic vein he observes: 'Truth is sometimes stranger than fiction; and, however surprising it may seem to some, we can reconcile our minds to the belief that the M. T. does reproduce with substantial accuracy the characteristics of the original autographs.'. . .

"This carefully judicial habit of mind lends all the greater weight to Dr. Skinner's pronouncements on the 'higher critical' question. Here he shows no hesitation. 'My own belief in the essential soundness of the prevalent hypothesis,' he says in the Preface, 'has been confirmed by the renewed examination of the text of Genesis which my present undertaking required.'. . . We have already quoted one of the sardonic sentences in which he disposes of Wiener's attempt to evade the problem by a frank abandonment of the reliability of the Hebrew."

The following is a complete copy of some correspondence that arose out of this article in the *Expositor,* with the exception of covering letters and letters marked "not for publication."

9 Old Square,
Lincoln's Inn, W. C.
24 October 1910.

To the General Editors of the
"International Critical Commentary,"
per the Rev. Canon Driver, D.D., F.B.A., etc.,
Christ Church, Oxford.

Gentlemen:—

It is with supreme reluctance that I find myself compelled to write and draw your attention to the false position in which Dr. Skinner has placed you; but unfortunately I cannot now feel any doubt as to my duty in the matter, although I well know that the inevitable result will be to put you in a position that will give you no less pain than my present action does me.

For the detailed facts of the case I must refer you to my article in the October number of the *Bibliotheca Sacra* of which I am posting a copy to Dr. Driver.[1] In reliance on this I just summarise the material points.

1. In discussing the Divine appellations in Genesis Dr. Skinner only records 50 cases of divergences from the Massoretic Text and bases his argument on these. In fact he well knew that the actual number was very much greater, and he had twice had his attention drawn to this in public. The evidence of knowledge is as follows:— (a) the reference in his discussion to my article in the *Bibliotheca Sacra* for January 1909; (b) his statement as to the Samaritan Pentateuch in the *Expository Times* for May 1909; (c) the additional variants he records in the body of his commentary; (d) Professor Schlögl's contribution to the *Expository Times* for September 1909 in a controversy to which Dr. Skinner

[1 *Supra*, No. 8, "The Swansong of the Wellhausen School."]

was himself a party. Thus we have here both *suppressio veri* and *suggestio falsi.*

2. Dr. Skinner argues on the assumption that differences might be explained by causes purely internal to the Septuagint and says not a word of any *Hebrew* (or other) corroboration of Septuagintal readings. He is here deliberately arguing on a false issue after his attention had twice been publicly drawn to the true issue. The evidence for his knowledge is as follows: (a) the reference in his discussion to my article in the *Bibliotheca Sacra* for January 1909; (b) the note of Mr. Cox in the *Expository Times* for May 1909; (c) my reply in the issue of the same magazine for July 1909.

3. In spite of all this Dr. Skinner writes as follows in the preface which is dated April 1910:— "My own belief in the essential soundness of the prevalent hypothesis has been confirmed by the renewed examination of the text of Genesis which my present undertaking required." Read in its context that sentence has only one natural — and indeed necessary — interpretation: viz, that he had given a full and fair examination to the facts and arguments adduced by his opponents. In truth he had done nothing of the sort. Here I must ask you to refer to pages 243 f of the *Expositor* for September 1910. You will see that Dr. Gordon has, through no fault of his own, been deceived — I fear that is the right word — by Dr. Skinner. He naturally assumed that Dr. Skinner had told the truth, the whole truth and nothing but the truth on the matters with which he purported to deal.

After much anxious thought I had succeeded in persuading myself that I might leave my article in the *Bibliotheca Sacra* to have its natural effect and had abandoned the half-formed intention of writing to you on the subject. Then came Professor Gordon's article in the September *Expositor.* On

reading it I could not help seeing that it was my duty to point out to you what had been done under the cover and sanction of your names. I have only waited for the appearance of the October number of the *Bibliotheca Sacra* to avoid the necessity of writing a letter the size of a pamphlet; but in the interval I have received further confirmation in the shape of notices of a volume of mine by Professor Condamin and a Saturday Reviewer, both of whom have obviously taken Dr. Skinner's allegations at face value. It seems so improbable that a man of Dr. Skinner's standing should adopt such methods and that he should not see in what a position he was placing you, that I have earnestly striven to believe that I was mistaken, or at any rate had taken too grave a view of the matter; but if a critic of Professor Gordon's knowledge and authority has been utterly misled, this theory becomes untenable. I limit the question to Professor Gordon for the sake of clearness and simplicity: but you will understand that every reader of the book who had not been warned would naturally be deceived and that to my knowledge this has actually occurred in at least two other instances.

I reserve liberty to publish this letter and any correspondence arising out of it not marked confidential, and of course I consent to similar action on your part.

I am sending a copy of this letter to Messrs. T. & T. Clark, the British publishers, whose interest in the matter appears to me to be second only to your own.

Yours faithfully,

Harold M. Wiener.

FROM DR. DRIVER

CH. CH., OXFORD,
Oct. 26.

Dear Sir:—

I am in receipt of your letter, and accompanying number of the *Bibliotheca Sacra*. I will communicate your letter as soon as possible to Dr. Briggs. I cannot, however, promise you a speedy answer: for, as he is in New York, we can only confer by correspondence, which *may* necessitate more than one letter on each side.

Yours faithfully,
S. R. DRIVER.

TO DR. DRIVER

9 OLD SQUARE,
LINCOLN'S INN, W. C.
27 October 1910.

Dear Sir:—

Thank you for your letter. I fully understand and am quite content to wait. Indeed in this matter my sympathies are very strongly with you, and I should be only too glad if you could find yourself in a position to say that on referring the matter to Dr. Skinner he had been able in some unexpected way to justify himself completely.

I ought perhaps to tell you that some weeks ago I sent Sir W. R. Nicoll an answer to Dr. Gordon which may possibly appear next month.

Yours faithfully,
HAROLD M. WIENER.

The Rev. CANON DRIVER, D.D., F.B.A.,
Christ Church, Oxford.

FROM THE GENERAL EDITORS

Dear Sir:—

In reply to your letter of October 24, we desire to say that in our opinion Dr. Skinner has in no way either placed us in a false position, or otherwise compromised us. We conceive that it is the function of an editor to secure, so far as this is possible, the author whom he considers to be generally the most competent to do the work to be entrusted to him, and with whose principles and point of view, so far as they affect the work to be done, he is generally in agreement. But, having secured an author, with whom upon general grounds, we are as editors thus satisfied, we must, in regard to the way in which he carries out his work, give him a free hand. It is neither required nor expected of us, as editors, that we should in every detail tell him what arguments he is to use or not use, what conclusions he is to adopt or not to adopt, what writers or publications he is to mention or not to mention. Such matters as these are left naturally to his own judgment; and if his judgment in any given case leads him to use or not use a particular argument, to adopt or not adopt a particular conclusion, to mention or not to mention a particular writer or publication, we do not consider that as editors we are in any way responsible. Even therefore though it were true that in the particular case to which you have called our attention, Dr. Skinner was at fault, we could not consistently with what we regard as our position as editors consider ourselves to be in any respect compromised.

In fairness however to Dr. Skinner, we think it right to add that we do not consider him to have been at fault in his treatment of the case to which you have referred. There appears to us to be no evidence that, when writing the sentence quoted by you from his preface, Dr. Skinner had not given a

full and fair examination to the facts and arguments adduced by his opponents. He was under no obligation to state in detail what he had done. The fact that he had reached, from the facts adduced, different conclusions from those which you had reached, is not evidence that he had not properly considered them; and he himself assures us that he had done this. As we have already said, it appears to us that it is for a writer to decide himself what arguments, or opposing views, he mentions. If therefore, after having examined, as he tells us he has done, the conclusions drawn by Prof. Schlögl or yourself from the additional variants, and the Hebrew corroboration, which you complain of his not mentioning, he was of opinion that they were not established, we do not understand why blame should attach to him for not referring to them.

Yours faithfully,

C. A. Briggs.
S. R. Driver.

Jan. 4, 1911.

TO THE GENERAL EDITORS

9 Old Square,
Lincoln's Inn, W. C.
6 January 1911.

To the General Editors of the
"International Critical Commentary,"
per the Rev. Canon Driver, D.D., F.B.A., etc.,
Christ Church, Oxford.

Gentlemen:—

I am obliged to you for your letter of the 4th inst.

From the first paragraph of the letter I gather that the appearance of your names on a volume of the International Critical Commentary does not in your opinion render you in

any way responsible for the truthfulness or the good faith of its contents. I did not know that this was your view when I wrote on the 24th October 1910. At that time I believed that the appearance of your names on a volume was a sufficient guarantee of good faith, that not one of the editors of the International Critical Commentary would wittingly allow his name to appear on a publication that was intended to deceive, and that if Dr. Skinner's volume contained anything that was not in accordance with the nicest standards of honor you were a proper tribunal to deal with the matter. If I was wrong in all this, I may at any rate thank you for your lucid exposition of the principles that guide you. I now understand that the only responsibility you admit to the public and to those who may buy a volume in reliance on your names is that of choosing an author whom you regard as suitable.

With regard to the second paragraph of your letter there are two points that call for reply.

(1) You write: "it appears to us that it is for a writer to decide himself what arguments, or opposing views, he mentions." That is, I think, susceptible of more than one meaning. In the case before us Dr. Skinner had decided to refer to my article in the *Bibliotheca Sacra* and to write an answer to it. Having come to that decision I claim that it was his duty to state my facts and arguments fairly, and not expressly or by implication to mislead his readers. He has failed to act fairly in all the following respects: (a) he has ignored the additional variants I had adduced and called the readings in all such passages "undisputed": (b) he has himself on Syriac evidence rejected a reading which he here reckons as "undisputed" (Skinner, p. 330; cp. Bib. Sac. Oct. 1910, p. 660[1]): (c) he has written an answer which is cal-

[1 *Supra*, p. 55.]

culated to make his readers believe that I had advanced an argument based on what might be purely Greek corruptions and nothing more. Now your canon might mean that in your opinion a writer is free to elect to mention some only of an opponent's arguments, even where those arguments form an interdependent whole, or you might repudiate this interpretation. In any case I feel it my duty to express clearly my dissent from the standard you have set up. In my view it is the duty of a writer to tell the truth, the whole truth and nothing but the truth with regard to any point that he thinks deserving of detailed discussion. For the sake of clearness I will take an illustration from every-day life. If a man were to tell me that he had three apples and begin to argue on that basis when in truth and in fact he had six, I should not regard his presentation of the case as satisfactory; and I cannot apply any other standard to a man who records 50 variants and argues on that basis, when to his knowledge there are not fewer than 189. I may point out that since you state in your letter that Dr. Skinner had considered the additional variants, his acquaintance with them is no longer open to question.

(2) You say: "If, therefore, after having examined . . . the conclusions drawn by Professor Schlögl or yourself . . . he was of opinion that they were not established, we do not understand why blame should attach to him for not referring to them." Permit me to say that I never suggested that any blame would attach in such a contingency. My complaint had no reference whatever to any "conclusions." He stated my conclusions with sufficient fulness and then argued against them on premises that were false to his knowledge. I complained of suppression of *facts,* suggestion of falsehood, ignoring of arguments. You must, I think, be able to un-

derstand the difference between a fact and a conclusion drawn from that fact. The former is something undeniable, the latter an inference as to which different minds may conceivably differ. This part of your letter is therefore not *ad rem.*

As the O. T. general editors of the International Critical Commentary admit no responsibility if the contributors to that series fail in the elements of truthfulness, it must be left to the public to judge this matter.

I thank you for the trouble you have taken.

Yours faithfully,

HAROLD M. WIENER.

FROM DR. DRIVER

CH. CH., OXFORD.

Jan. 10.

Dear Sir:—

I am in receipt of your letter, which I have forwarded to Dr. Briggs. Until I hear from him, I am naturally unable to say whether we shall desire to send you a reply or not.

Yours faithfully,

S. R. DRIVER.

TO DR. DRIVER

9 OLD SQUARE,
LINCOLN'S INN, W. C.
11 January 1911.

Dear Sir:—

In view of your letter of yesterday's date I should like to know your wishes as to immediate publication of the correspondence. When I received the letter of Jan. 4 I thought that it barred the way to further discussion because it ap-

peared to me that the differences between us were partly due to two entirely incompatible theories of editorial responsibility. Accordingly I sent off a complete copy of the correspondence to the *Bibliotheca Sacra*. I am therefore writing today to delay its publication for two or three days, and I should be glad to know whether you would like me to delay it further until you can hear from Dr. Briggs.

We are so little *ad idem* in this matter that I venture to ask you to try and realise some of the considerations that weigh with me. Before I came to Biblical studies I should have believed that such an episode as this of Dr. Skinner was impossible. Gradually I have been robbed of one illusion after another; but I believe that a large portion of the general public still think as I did some seven years ago. If that be so they ought to be disabused of their belief: and for that reason the speedy publication of the correspondence appears to me to be desirable.

On the other hand I am naturally extremely anxious that I should not do you the slightest injustice. Yesterday's letter suggests to me a possibility that when you signed the letter of Jan. 4 you had perhaps not quite grasped all that was involved in my original letter. Now if that be so, I have not attained my object. I tried to make matters perfectly clear; if I have so far failed that there can be a scintilla of doubt in your mind as to my exact meaning, please tell me so, and let me answer as fully as may be any questions that may be necessary to clear the matter up. It is most certainly not to anybody's advantage that an erroneous impression of your attitude should get abroad. When I wrote my first letter I believed that neither you nor Dr. Briggs would in any way permit your names to be used to give currency to falsehood: and it did not for one moment occur to me that you

would adopt or had adopted a theory of editorial responsibility which made this possible. I only abandoned this view because your own signatures forced me to do so; and it was obviously impossible for me to go behind them. But if on reflection you think that there is room for further consideration, please tell me to hold up the publication of the correspondence. Your final decision must affect the traditions of Anglo-American O. T. studies for a long time to come.

Of course at any moment a rash reviewer may write a notice that will force my hand: but that is a risk that we may have to take: and in case of any difficulty I should venture to consult you as to the proper course to adopt if your final decision were still pending.

Yours faithfully,

HAROLD M. WIENER.

The Rev. CANON DRIVER, D.D., F.B.A.

Here followed two letters marked "not for publication" (one from Dr. Driver to the writer and a reply from the writer to Dr. Driver). The correspondence then continued as follows:—

FROM DR. DRIVER

CH. CH., OXFORD,

Jan. 15.

Dear Sir:—

I am very much obliged to you for your letter, and appreciate your willingness to postpone the publication of the correspondence. Your letter is certainly very helpful; for it appears to me to both clear and narrow the issue. It is a satisfaction to find that we agree upon points on which Dr. Briggs and I had both supposed that we differed; and if we

had had this letter before us when we drew up our reply, I have little doubt that it would have been a different one. I forwarded your letter to Dr. Briggs by yesterday's mail, at the same time telling him what I now thought: I also telegraphed to him to defer sending an answer to my previous letter, till he received this.

Your first letter was in my possession, though not actually before me, at the time of my signing our reply: but I had read it very carefully before sending it to Dr. Briggs, and examined the passages referred to in it. Both it and our reply are now with Dr. Briggs, as I thought that he might wish to refer to them: but I asked him to return them to me; and as I cannot now do more till I hear from him, I do not think I need avail myself of your kind offer to supply me with a duplicate.

I am acquainted with your writings, and have read considerable parts of them; indeed, I am indebted to you for sending me all the most important. I obtained your *Essays in P. C.*, as soon as it appeared; and have several times referred to it, — I mean, on other points besides the present question.

Believe me,

Yours truly,

S. R. Driver.

FROM THE GENERAL EDITORS

New York, February 28, 1911.

Harold M. Wiener, Esquire.

Dear Sir:—

We beg to acknowledge your letter of January 6th in reply to ours of January 4th, as well as more personal communications from you of January 11th and 13th. We regret

that the wide separation of the editors of the International Commentary, and the consequent time required for any exchange of views, has led to such a delay in our answer. We now desire to say that we welcome the evidence which we believe we find in your letters that our conception of the duties of the editors of such a series does not, after all, differ very widely from yours.

The issue seems to be narrowed down to this: whether or not in anything which Dr. Skinner has written, or omitted to write, in his Commentary on Genesis, he has laid himself open to just criticism on the part of the editors under the general rules which we seem to agree should govern editorial supervision in such cases. On this point we desire, first, to reaffirm the opinion which we have already expressed with regard to Dr. Skinner; and, secondly, to explain more explicitly than we did before the grounds on which our opinion rests.

First, there appears to us to be absolutely no evidence showing that Dr. Skinner wrote with any intention to deceive; and we must emphatically deny that he did deceive, or that he wrote untruthfully, or that he omitted to mention any facts which were of any importance for the question at issue.

Secondly, we base this opinion on the following considerations. We have both been familiar with the Septuagint for many years, and have compared large parts of it very minutely with the Massoretic text. As the result of this comparison we both hold that, where the two differ, the Massoretic text is to be preferred until the reading presupposed by the Septuagint has been shown to be superior to it, especially by yielding a sense in better agreement with the context or by being preferable upon philological or grammatical grounds. One of us expressed substantially this view as long ago as

1890 (Driver, Notes on Samuel, p. xl), and he repeated it in 1906 (Book of Jeremiah, ed. 1, p. xxv), "The principle which, I venture to think, will most generally commend itself is that of giving the Hebrew text the general preference, and of deviating from it only where the grounds are cogent, and the advantage gained is unmistakeable and clear."

In such expressions as these we have proposed no novel doctrine, but we only voice the general judgment of sober modern scholars. Dr. Swete writes to the same effect (Introduction to the Old Testament in Greek, 1900, p. 444–5). We cannot, therefore, consistently with these principles, formed long ago, without any reference to the present controversy, admit that a variant reading presupposed either by all or by some MSS. of the Septuagint, possesses any value as against the Massoretic text, or even casts doubt upon the Massoretic text, until good cause has been shown for preferring it. In our opinion this has not been done in the case of those variants which you blame Dr. Skinner for disregarding.[1]

The series of Commentaries of which we are editors are commentaries, not on the Septuagint or other versions, but on the Hebrew text of the various books of the Old Testament; and it is no instruction given by us to the contributors to register every variant reading presupposed by the versions. They are free to use their own discretion in mentioning such variants as they think suitable to their purpose; and they naturally mention chiefly such as suggest probable emendations of the Massoretic text or possess some other special interest. The readings which you censure Dr. Skinner for not noticing have not been shown to possess the smallest critical value, or to supply any sufficient ground for questioning the correctness of the Massoretic text.

[1] [It will be observed that in the above letter the general editors

You acknowledge that Dr. Skinner's treatment of the Septuagint variants in the matter of the divine names in Genesis, do not cite any expression of the senior editor and first signatory, Dr. Briggs, as voicing what they term "the general judgment of sober modern scholars." After the correspondence had been closed, I looked up his works to see whether I could discover any statement of "these principles, formed long ago, without any reference to the present controversy," and I found that in point of fact there were a number of statements absolutely *contradicting* them. I will cite only three:—

"In a very large number of instances the ancient Versions, especially LXX and Vulgate are more correct than M.T. Modern scholars have greatly erred in a too exalted estimate of the correctness of the unpointed Hebrew text in this regard. The measures make it evident that even M.T. by its numerous additions and changes of the original, is as truly an interpretation of an older text as LXX and other ancient Versions" (Psalms (1906), vol. i. p. liii); "The Septuagint version of the Law . . . takes us back of the Maccabean text" (General Introduction to the Study of Holy Scripture (1899), p. 238); "There can be no doubt, as Robertson Smith states: 'It has gradually become clear to the vast majority of conscientious students that the Septuagint is really of the greatest value as a witness to the early state of the text'" (*op. cit.*, p. 229).

In such expressions Dr. Briggs is in fact supported by nearly all the "sober modern scholars" who have contributed volumes on the Old Testament to the International Critical Commentary at the invitation of the general editors. Thus Dr. Toy writes of the LXX in Proverbs, "It represents in general an older text than that of the received Hebrew tradition" (Proverbs, p. xxxii). I do not dilate on the question now, as I wish to see whether the general editors will really venture to exercise the right of further discussion which they have specifically reserved in the letter of May 3; but I hope to return to it before long. [See *infra*, No. 11.]

Meanwhile I desire to lay stress on the following points: (1) For a century and a half the critics followed Astruc's clue practically without textual investigation; (2) When recent textual researches had rendered their position insecure, Dr. Skinner deliberately misrepresented the facts in an attempt to bolster up the documentary theory; (3) When the attention of the general editors was drawn to this, they took no steps to undeceive the public, which had been deceived under the cover and sanction of their names, and put forward the contentions contained in the joint letters.—H. M. W.]

which are put forward by Professor Eerdmans, is from his point of view sufficient. If he holds, as we believe he has a right to hold, that the larger number of variants claimed e.g. by Professor Schlögl has no critical worth, why should he mention them? It appears to us that Professor Schlögl is following altogether unsound principles of textual criticism, and that his conclusions with regard to the Hebrew text of Genesis are destitute of the smallest probability.

If Dr. Skinner does not specifically state that some Hebrew variants agree with the Septuagint, it is simply because the history of the Hebrew text shows that such agreements are presumably late and possibly accidental, and have no bearing upon the original text. Evidence from the Samaritan Pentateuch is, of course, of a different kind, but so meagre as to decide nothing in the matter of literary analysis. This being the case, we cannot agree that Dr. Skinner has withheld from his readers any facts relevant in reality to the question at issue. He has done nothing more than is done in general by commentators on the Old Testament, who habitually take no notice of the readings of the versions which they consider to be without value for the emendation of the Massoretic text and to possess no other special interest.

In the dialogues in the book of Job, as is well known, the names *God* and *Shaddai* — except in 12: 9 — are uniformly employed. The Septuagint, however, in most cases represents both these names by *Lord:* but the fact — as we imagine scholars would universally agree — affords no justification for correcting, or even for questioning in regard to these names, the existing Hebrew text of the book.

In this connection we may refer to Dr. Skinner's treatment of Genesis 16: 11. It appears to us to be not at all clear that in this passage *God* is the true reading of the Hebrew. The

stress lies upon the verb *heard,* not upon the particular divine name employed; and in the explanation of the name "Samuel" in I Samuel 1: 20 the Tetragrammaton is used.

It is, however, not possible for us, nor do we think it is necessary, to cite further illustrations of our view. Even if we thought that Dr. Skinner's judgment had been at fault in the matter of material selected, we should not necessarily as editors have felt called upon to insist that his judgment should yield to ours, convinced as we are that he has presented all essential facts that bear upon the question before him.

We naturally read the sheets of our contributors and make suggestions upon them, but we do not consider it to be our duty to instruct them how they are to deal with every question which arises. But for the reasons which we have now explained, we were satisfied with Dr. Skinner's treatment of the present case.

We beg to remain,
Yours faithfully,
C. A. Briggs.
S. R. Driver.

TO THE GENERAL EDITORS

9 Old Square,
Lincoln's Inn, W. C.
15 March 1911.

To the General Editors of the
"International Critical Commentary,"
per the Rev. Canon Driver, D.D., F.B.A., etc.

Gentlemen:—

I thank you for your letter bearing date February 28 1911 to hand this morning. It was not necessary to apologise for the delay in answering as I most fully realise your difficulties.

It appears to me that your letter intertwines two sets of con-

siderations: first, the views you yourselves hold on textual criticism, and secondly, the issue of Dr. Skinner's honesty or dishonesty. I should be delighted to discuss the former with either or both of you on any other occasion, and not the less because I notice that your letter avoids many germane considerations that I have advanced in the articles to which your attention has been drawn: but I feel that I should be failing in my duty on this occasion, if I were to enter on any line of argument that might for one moment obscure the real issues. Either the ordinary rules of good faith apply to the International Critical Commentary and the conduct of its contributors or else they do not: and my present task is to strive to make that so clear that no confusion shall be possible.

1. In my first letter I wrote "In discussing the Divine appellations in Genesis Dr. Skinner only records 50 cases of divergences from the Massoretic text and bases his arguments on these. In fact he well knew that the actual number was very much greater, and he had twice had his attention drawn to this in public. . . . Thus we have here both *suppressio veri* and *suggestio falsi*." You do not now dispute the accuracy of my charge, nor could you, for I have proved it up to the hilt. But you say: "We cannot . . . admit that a variant reading presupposed either by all or by some MSS. of the Septuagint, possesses any value as against the Massoretic text, or even casts doubt upon the Massoretic text, until good cause has been shown for preferring it. In our opinion this has not been done in the case of those variants which you blame Dr. Skinner for disregarding. . . . The readings which you censure Dr. Skinner for not noticing have not been shown to possess the smallest critical value, or to supply any sufficient ground for questioning the correctness of the Massoretic text." Now these opinions would be open to discussion on

the question of scholarship, but on the question of good faith they do not seem to me to have any bearing for three reasons: (a) Dr. Skinner himself, as I pointed out in my letter of the 6th January, *adopted* one of these variants which in your opinion "have not been shown to possess the smallest critical value" in another portion of his commentary. You may hold that he was mistaken in so doing: but as he did adopt it you cannot hold that he entertained an honest opinion that it possessed no critical value. This alone disposes of the argument that "If he holds, as we believe he has a right to hold, that the larger number of variants claimed . . . has no critical worth" he is under no obligation to mention them. One at any rate of that large number seemed to him so valuable that he preferred it to the Massoretic text. In view of this I scarcely know what to make of your emphatic denial "that he did deceive, or that he wrote untruthfully, or that he omitted to mention any facts which were of any importance for the question at issue."

(b) Dr. Skinner himself most emphatically admits what you say you cannot, viz: that a variant reading presupposed either by all or by some MSS. of the Septuagint possesses value. "It cannot be denied," he says, "that the facts adduced by these writers import an element of uncertainty into the analysis, so far as it depends on the criterion of the divine names." And he then goes on to put forward the thoroughly disingenuous numerical argument based on the number 50 for the variants. This argument itself presupposes that the variants have importance and if that be so of the 50, it is so of the much larger number that existed to his knowledge. A writer who held that the variants were of no importance could not have written the numerical argument.

(c) Dr. Skinner in the *Expository Times* and you your-

selves in this letter of the 28th February place reliance on the Samaritan Pentateuch. Yet he here ignored its eight variants.

To return to my old illustration of the apples. If a man tells me that he has three apples when to his knowledge he has six, I cannot regard his statement as ingenuous. If his friends then urge that the matter is of no consequence because in their opinion it is immaterial whether he has any apples at all, that can make no difference to the question of his truthfulness. If they admit that some of the apples possessed some sort of importance while the others did not, that still leaves my opinion on the original issue unaffected: and if the man himself said that his possession of not more than three apples was important, I conclude that with the best of goodwill his friends are unable to offer any excuse that will hold water.

2. In my original letter I wrote "Dr. Skinner argues on the assumption that differences might be explained by causes purely internal to the Septuagint and says not a word of any *Hebrew* (or other) corroboration of Septuagintal readings. He is here deliberately arguing on a false issue after his attention had twice been publicly drawn to the true issue." You say (a) that the history of the Hebrew text shows that such agreements are presumably late and possibly accidental: (b) that the Samaritan evidence is meagre: and (c) that "He has done nothing more than is done in general by commentators on the Old Testament, who habitually take no notice of the readings of the versions which they consider . . . to possess no other special interest." Now I differ from you as to the point of scholarship, but the difference is not very striking since the high water mark of your assurance is reached in the expressions '*presumably* late and *possibly* accidental" — not even "*probably* accidental." If you really think phrases

like this sufficient to rule out inconvenient evidence, we are separated on a fundamental principle of research: but putting this aside "the possibly accidental" Hebrew variants, *plus* the "meagre" Samaritan variants, *plus* the evidence of Aquila, Hexaplar notes, the Targum, etc., which you do not even mention, *together* constitute a body of evidence to which such epithets as "presumably late," "possibly accidental," and "meagre" have no application. But even this does not touch the main point. Dr. Skinner knew that this body of evidence existed: it is impossible to contend that variants that rebutted his argument as to corruptions, etc., of the Greek text possessed no "special interest" *for the question he was considering*. You will correct me if I am mistaken, but so far as I know O. T. commentators generally would not be prepared to concede that they habitually omit all mention of inconvenient facts and then argue on the basis that no such facts exist. Here again it seems to me indubitable that Dr. Skinner wrote untruthfully and that he omitted to mention facts which were of importance for the question at issue. That he did deceive is shown by the facts adduced in my first letter.

You cite my admission about Eerdmans: let me supply the context: "As a matter of fact Dr. Skinner's note would have been a sufficient reply to Eerdmans: but as a reply to me it was entirely dishonest. You may say 'well, even if there are 10,000 variants in Genesis, that does not alter my view of the documentary theory because my principles of textual criticism are different.' You cannot say that if to your knowledge there are 189 variants, including some Hebrew variants, it is honest to lead readers to believe that there are not more than 50, or that they may be due to purely Greek causes."

I have striven to keep this letter as much as possible to the true issues. To me it seems that what we are debating goes to the very root of the claim of the I. C. C. to be regarded as in any sense scientific. To my mind it is a pre-condition of all scientific work that the investigator shall strive to tell the truth to the best of his ability. I am not sure that I understand even now whether you agree with this or not, for you seem to me to rest your case not on whether Dr. Skinner spoke the truth, or even on whether he spoke the truth on matters that he himself thought important, but on whether *you* think the matters on which he failed to speak the truth important. To my mind this is the abandonment of the principle of truthfulness — the erecting of some standard of belief on critical questions as a canon that overrides the obligation to speak the truth, the whole truth and nothing but the truth on the matters discussed. And herein lies some of the gravity of this correspondence. If the letter of February 28 represents your last word on this subject, the most authoritative Anglo-American O. T. critics reject ethical standards that are universally accepted in other fields of learning.

Believe me,

Yours faithfully,

HAROLD M. WIENER.

FROM THE GENERAL EDITORS

Dear Sir:—

It appears to us that no good purpose will be served by prolonging this correspondence. It is not easy for scholars to meet the charge of untruthfulness patiently. We have endeavored to do so, assuming that the charge was based on a misapprehension on your part. But we do not think we should go further. We of course accept your major premise, that untruthfulness is reprehensible, but this seems to be almost

the entire extent of our common ground. We deny absolutely your minor premise, that untruthfulness is shown in Dr. Skinner's book. The question between us does not relate to the elementary principles of honesty, but to the elementary principles of textual criticism. You seem to regard virtually any variant of any Version or of any MS. of a Version, of whatever date or character, as superior to M. T. This is not a principle accepted among scholars at large; in fact, as far as we know, it is confined to Schlögl and yourself. It is obvious that, under the circumstances, little progress can be looked for in this discussion, and we must beg you to excuse us from continuing it. We of course, reserve the right to treat the issues of scholarship involved in whatever manner we may think proper.

Very truly yours,

C. A. Briggs.
S. R. Driver.

May 3, 1911.

9 Old Square,
Lincoln's Inn, W. C.
4 May 1911.

To the General Editors of the
"International Critical Commentary."

Gentlemen:—

I thank you for your letter of May 3 and have only to add one thing, viz. that you are mistaken in your interpretation of my textual attitude — I think also in your interpretation of that of Professor Schlögl. So far as I am aware I have never written anything that will bear the construction that any variant of any Version or of any MS. of a Version of whatever date or character is superior to M. T., and certainly that is not my opinion.

Yours faithfully,

Harold M. Wiener.

X

THE HIGHER CRITICAL QUANDARY (II)

A CORRESPONDENCE WITH DR. GORDON

[From the *Bibliotheca Sacra*, April, 1912.]

FROM DR. GORDON

PRESBYTERIAN COLLEGE,
MONTREAL, Aug. 25, 1911.

To the EDITOR of the "Bibliotheca Sacra."

Dear Sir:—

I have just read the correspondence in your July number, arising out of my review of Dr. Skinner's "Genesis." I have no desire to enter into the controversy further than to disclaim Mr. Wiener's suggestion that I have been either "deceived" or "misled" by Dr. Skinner in regard to the questions under dispute. I have long been familiar with the critical problem, and written not a little on the subject. To the recent assaults on the "prevalent hypothesis" I have given very considerable attention. When I wrote my review of Dr. Skinner's book I was perfectly familiar with the articles of Schlögl and others in the *Expository Times*. Since reading the correspondence, I have refreshed my knowledge of Schlögl's argument, and still fail to see how so violent a cutting of the knot can be held to solve a problem which involves very much more than mere alternation of the Divine names in Genesis. On Schlögl's critical principles, indeed, one might prove or disprove any given hypothesis at will. The modern commentator on "Genesis" has such a mass of really important matter to deal with, that he may surely be permitted to pass over in silence "evidence" that seems to him to have no vital bearing on the

case, without being compelled to face charges of "suppression of facts, suggestion of falsehood, ignoring of arguments."

I shall be glad if you insert this disclaimer in some forthcoming number of the BIBLIOTHECA SACRA.

Yours faithfully,

ALEX. R. GORDON.

FROM MR. WIENER

By the courtesy of the editor I have been able to see Dr. Gordon's letter before its publication. I need only point out that it leaves my charges absolutely untouched. I never accused Dr. Skinner of deceit for not mentioning Schlögl's *argument:* I charged him with deceit for having represented to his readers (1) that there were not more than 50 variants in Genesis, and (2) that the Septuagintal variants could all be due to intra-Greek causes when to his knowledge both these representations were false. If Dr. Gordon is prepared to say that he disbelieved Dr. Skinner's representations on these points when he read them, then he was neither misled nor deceived: but if (as I think his *Expositor* article proves) he in fact believed them, then I fear he *was* deceived. But this much I should like to add. In my opinion Dr. Gordon was entitled to suppose that Dr. Skinner was telling the truth, the whole truth and nothing but the truth: and I need scarcely say that far from thinking that Dr. Gordon's acting on this supposition in any way casts a slur on him it was the natural thing for him to do without troubling at the time to refresh his memory as to my articles. It was because Dr. Gordon was so manifestly an honest and competent writer on the subject that I felt compelled to take action in the matter. Dr. Gordon's honesty and competence are the measure of Dr. Skinner's intellectual dishonesty.

I take this opportunity of reminding Dr. Gordon that in spite of "the very considerable attention" he has given to "recent assaults on the prevalent hypothesis," neither he nor anybody else has yet ventured to deal with the other points made in my *Expositor* reply to him — the original date of Gen. x. 19, the practice of non-sacrificial slaughter in Israel long before the various critical dates for Deuteronomy, and the inability of Wellhausen and his followers to distinguish between a mound and a house as the basis of the prevalent reconstruction of the history.

HAROLD M. WIENER.

8 September 1911.

FROM DR. GORDON

PRESBYTERIAN COLLEGE,
MONTREAL, Sept. 21, 1911.

The EDITOR, Bibliotheca Sacra.
Dear Sir:—

I am obliged to you for your kindness in sending me a copy of Mr. Wiener's letter before publication. I cannot however allow my "honesty" to be made the measure of Dr. Skinner's "dishonesty." In the matter in question, we both occupy the common ground of scholarship. As I said before, the modern commentator has such a mass of really important matter to deal with, that he must necessarily exercise a wise discretion. This applies to his citation of variants from the Versions as well as to references to literary authorities. Some of these are valuable: but many more are mere phenomena of greater or less interest. The latter group the textual critic will pass over without any necessary mention. Dr. Skinner has cited the Septuagintal variants in Genesis as registered by so careful students of the Septuagint as Redpath and

Eerdmans. Mr. Wiener adduces a further "enormous number of passages," where "*some* Septuagintal authority differs from the ordinary LXX. reading." Dr. Skinner does not recognise these latter variants as sufficiently authenticated or important to enter into the question. In arriving at that opinion, and acting on it, he is just as entitled to be called "honest" as one who urges the importance of the whole list. The question is really one of opinion, or critical judgment, not of "honesty." And one cannot but regret that Mr. Wiener continues to press his charges against so simple, sincere, and absolutely candid a man as Dr. Skinner.

Yours faithfully,

ALEX. R. GORDON.

FROM MR. WIENER

I have carefully read Dr. Gordon's letter, but fail to see that he has a single word to say with regard to the other points I made against him in the *Expositor*. Is he unable to produce any reply at all? Or does he think it immaterial whether the results of the Wellhausen school are correct to within a thousand years or so, and whether or not their main theory rests on nothing more substantial than their inability to distinguish between a mound and a house?

Turning to the question of Dr. Skinner everybody must sympathise with the motives that prompt Dr. Gordon, but such sympathy must not allow us to condone a deliberate attempt to deceive the public. In my former reply I pointed out that I had "charged Dr. Skinner with deceit for having represented to his readers (1) that there were not more than 50 variants in Genesis, and (2) that the Septuagintal variants could all be due to intra-Greek causes when to his knowledge both these representations were false." On the second point

Dr. Gordon says nothing at all. I therefore challenge him to answer the following direct question with a plain "aye" or "no": (a) Did he believe Dr. Skinner's representations on the point when he read them? If he did believe them, then he was deceived, for to deceive only means to procure an innocent person to believe a representation which is false to the knowledge of the person who procures the belief.

On the first point however Dr. Gordon attempts to argue the question. According to him "Dr. Skinner does not recognise variants other than those registered by Redpath or Eerdmans as sufficiently authenticated or important to enter into the question." That this is untrue is shown by the fact that Dr. Skinner himself has in another context actually adopted a Syriac reading that is not registered by Redpath or Eerdmans. Next, as even Dr. Skinner's own general editor observes, "neither Redpath's nor Eerdmans' list is *exact*" [Driver, Genesis, 8th ed., p. XLIV, note]. Again if Dr. Gordon will read the contributions of Redpath and Eerdmans, he will see that neither of them has used Lucian or the evidence of Field's Hexapla as to the original readings of the Septuagint as found by Origen. Will he venture to say that any competent scholar could honestly reject either the one or the other as "not sufficiently authenticated or important"? Nor again is it true to say that "the question is really one of opinion or critical judgment," for Dr. Skinner put it forward as a question of *fact*. His argument was that while the facts adduced by a number of writers of whom I was one, imported an element of uncertainty into the analysis, the significance of the facts was greatly overrated. He then alleged that so far as he had observed no attention was paid to the proportion of divergences to agreements as between LXX and M.T., that the Divine names occurred about 340 times in Genesis, that

the total deviations registered by Redpath numbered 50 while according to Eerdmans they were 49 i.e. little more than one-seventh of the whole. He then proceeded: "Is it so certain that that degree of divergence invalidates a documentary analysis founded on so much larger a field of undisputed readings?" I therefore challenge Dr. Gordon to answer the following direct questions also with a plain 'aye' or 'no': (b) Did he when he read these representations believe (i) that the facts adduced by the writers of whom I was one were limited to at most 50 passages in Genesis; (ii) that I had overlooked the proportion of divergences to agreements or that Dr. Skinner had reasonable cause to suppose that I had overlooked it; and (iii) that save in little more than one-seventh of the whole number of occurrences the readings were "undisputed"? If Dr. Gordon can answer questions (a) and (b) in the negative, he is entitled to say that he cannot allow his honesty to be made the measure of Dr. Skinner's dishonesty; but not otherwise.

Two other points made by Dr. Gordon must be shortly noticed. He says with truth that the modern commentator has such a mass of really important matter to deal with that he must exercise a wise discretion. That however does not justify him in making false representations on a matter with which in the exercise of that wise discretion he decides to deal. It is as if in reply to a charge that A had lied on a particular question, somebody were to say 'Ah, but look at the mass of things from among which he had to select topics for conversation'! Secondly Dr. Gordon calls Dr. Skinner "simple, sincere and absolutely candid" and regrets that I should continue to press my charges. Well, I will tell him something of my experience. I find that the Wellhausen theories are supported by a large number of professors in

various parts of the world, who have enormous power by virtue of their positions, the numbers of their supporters and the extent to which they and their supporters control the general and technical press. That power is used with the utmost unscrupulousness to prevent any opponent of theirs from getting a fair hearing and to induce their pupils and the general public to believe that their theories are unchallengeably true. There are many ways of being dishonest, and as a general rule the Wellhausen critics use more caution than Dr. Skinner has done: but with a few striking exceptions they fall as far short of the standards of conduct observed by honorable laymen as does Dr. Skinner himself. As a result I have been driven to adopt the course that I have followed in this instance to expose the methods by which the Wellhausen theory is maintained. If Dr. Gordon or any other critic finds this plain statement of fact unpalatable, the remedy for this state of affairs lies in his own hands. Let him take the works of the conservative writers and tackle them honestly, grappling with each point in turn, refuting it or admitting its validity publicly. Then and only then will he have a right to pronounce an opinion as to who is or is not "simple, sincere, and absolutely candid."

HAROLD M. WIENER.

LINCOLN'S INN, 6 October 1911.

FROM DR. GORDON

PRESBYTERIAN COLLEGE,
MONTREAL, Nov. 18, 1911.

The EDITOR, Bibliotheca Sacra.

Dear Sir:—

I am in receipt of yours of the 15th, enclosing Mr. Wiener's rejoinder to my last letter.

As I entered this controversy purely to make a personal

statement, I must respectfully decline to be drawn into a discussion of the general critical problem of the Pentateuch. Further, I have to observe that the questions Mr. Wiener propounds for me are all based on the gratuitous assumption that Dr. Skinner is dishonest because he happens to differ from Mr. Wiener on what is to be considered valid evidence. They virtually resolve themselves into this. Did I believe Dr. Skinner to be telling the truth when he was really lying? — a question that can no more be answered by a simple "Yes" or "No" than the old subtlety of the logic books, "Have you left off beating your mother?" I must content myself then with the general statement — and with this the correspondence must close, so far as I am concerned — that in my judgment Dr. Skinner has, within the limits imposed by his Commentary, given a perfectly fair presentation of the problems of Genesis, including the relation between the Massoretic text and the Versions. Repeated study of his work confirms me in the impression that he has given all due consideration to the "facts" brought forward by Mr. Wiener, and has appraised them at their true value.

Yours faithfully,

ALEX. R. GORDON.

FROM MR. WIENER

Every reader will be able to see for himself that Dr. Gordon refuses to answer plain straightforward questions, and this provides a fresh example — this time in public — of the methods by which it is sought to maintain the current critical theories. For myself I confess that I am disappointed, but not in the least surprised. Dr. Gordon's methods can of course make no difference to the triumph of truth: but it appears to me that they reveal a lamentable state of affairs.

For what are the questions about Dr. Skinner that Dr. Gordon refuses to answer in response to my challenge? They are these:—(a) Did Dr. Gordon believe Dr. Skinner's representations that the Septuagintal variants could all be due to intra-Greek causes when he (Dr. Gordon) read them?

(b) Did Dr. Gordon when he read Dr. Skinner's representations as to the number of variants in Genesis believe (i) that the facts adduced by the writers of whom I was one were limited to at most 50 passages in Genesis, (ii) that I had overlooked the proportion of divergences to agreements or that Dr. Skinner had reasonable cause to suppose that I had overlooked it, and (iii) that save in little more than one-seventh of the whole number of occurrences the readings were "undisputed"?

I asked Dr. Gordon whether he believed Dr. Skinner, nothing more: I did not ask him whether he believed Dr. Skinner to be telling the truth when he was really lying: for Dr. Skinner's mendacity had been put beyond all doubt by the earlier correspondence with the general editors: and the point at issue with Dr. Gordon was simply whether the latter had believed the statements which had been proved false and so been deceived. Dr. Gordon's only reply is to say in effect "I can no more answer 'yes' or 'no' to questions whether I believed Dr. Skinner's statements when I read them than I can answer 'yes' or 'no' to the question 'Have you left off beating your mother?'" *Qui est-ce qu'on trompe ici?*

Dr. Gordon has of course rendered a very real service to the cause of truth by making it quite plain that he dare not commit himself to a statement that he believed Dr. Skinner. Whether he has also rendered Dr. Skinner or his general editors any real service thereby is a question that I do not feel called upon to discuss: and I leave my readers to form their

own judgments on the fitness of professors who act as these critics have done to be entrusted with the education of youth. Some things are too plain to need emphasising.

I should be sorry to lose this opportunity of once more reminding Dr. Gordon that he has as yet totally failed to produce any reply to the points I put to him over a year ago during the intervals of leisure in which he was not engaged in making personal statements. As I pointed out in my first communication those points are the original date of Gen. x. 19, the practice of non-sacrificial slaughter in Israel long before the various critical dates for Deuteronomy, and the inability of Wellhausen and his followers to distinguish between a mound and a house as the basis of the prevalent reconstruction of history. What shall be said of men who propagate views the correctness of which to within a thousand years they are unable to defend?

HAROLD M. WIENER.

LINCOLN'S INN, 29 November 1911.

XI

SOME ASPECTS OF THE CONSERVATIVE TASK IN PENTATEUCHAL CRITICISM (II)

[From the *Bibliotheca Sacra*, April, 1912.]

In the Bibliotheca Sacra for January, 1911, the present writer discussed "Some Aspects of the Conservative Task in Pentateuchal Criticism."[1] The object of the present paper is to consider these further in the light of what has occurred since that article was written. It cannot be contended that the conditions of the problem are unaltered or that no new light has been thrown on the duty of conservatives by what has happened in the interval.

It may first be observed that, whether we look at the lights or the shadows of the picture, conservatism has made progress. There is more and better conservative literature in the world than before. The emergence of Mr. J. S. Griffiths as a new conservative writer is a most cheering sign of the times. His excellent "Problem of Deuteronomy" is a welcome addition to the literature of the subject, and strengthens the position of conservatives throughout the English-speaking world. Dr. W St. Clair Tisdall has published an admirable *brochure* entitled "Why I am Not a Higher Critic," which has been warmly received in more than one country. The *Jewish Quarterly Review*, formerly an organ of the higher criticism, has been converted to sane and sober views on biblical scholarship, and is now conducted with a learning and an ability that bid fair to make it one of the most valuable of theological periodicals to all who are interested in Old Testament Studies:

[1] See *supra*, No. 1.

it is not the only periodical that has shown signs of turning from the higher critical vagaries. In Germany, too, indications of change from the fashionable hypothesis are not wanting. Pastor W. Möller has at last broken with the documentary theory; and though his book "Wider den Bann der Quellenscheidung" may at first shock the delicate sensibilities of those who hold that orthodoxy consists in the unquestioning acceptance of a theory that makes the Pentateuch a cento of literary forgeries, it cannot in the long run fail to assist in shaking the position which that theory now occupies in the Universities of Northern Europe.[1] Here, too, mention should be made of Dr. Aage Schmidt's "Gedanken über die Entwicklung der Religion auf Grund der babylonischen Quellen,"[2] a monograph that is distinguished by the conservative results to which a comprehensive survey of the ancient evidence as to religious development has led the learned author.

The true weakness of conservatives does not lie in any inherent difficulties of the conservative case or in any faults of its champions. On the contrary, they possess the qualities that are necessary for the vindication of their views. They have the learning; they have the ability; more important than either, they have the strength of character. Unfortunately — and it is here that their whole difficulty lies — they have not the necessary organization, though in this respect they are rap-

[1] Since the above was written, a Dutch scholar, Dr. A. Troelstra, has published a brilliant and successful piece of work "De Organische Eenheid van het Oude Testament" (Leiden: A. L. Vlieger, 1912). It is an inaugural lecture delivered to the Leyden students. An English translation appeared in the Bibliotheca Sacra for July, 1912. With Eerdmans and Troelstra both lecturing at the premier Dutch University, the prospects of the documentary theory in Holland are not of the rosiest.

[2] Leipzig, 1911.

idly improving. Not so very long ago the lack of intercommunication between the conservative scholars of various countries and creeds was extremely striking; and though there is a growing tendency to remedy this, the evil effects of the state of affairs that long prevailed have not yet passed away. The fault does not lie with the conservatives. It is due to the control exercised over almost the whole of the technical press in the various countries by the higher critics. Hereafter I shall have to speak of the darker aspects of the higher critical tactics, and it will be seen how that control must operate for the suppression of truth. Fortunately, as already stated, it is no longer so complete as formerly: and it cannot be doubted that, as conservatism obtains a hearing, the higher critical positions will be seen, by increasingly large numbers of people, to be untenable. The rate of progress made in the diffusion of sounder ideas is cumulative.

Side by side with these phenomena is the important fact that many lifelong critics are becoming exceedingly doubtful as to the soundness of their views. From the nature of the case one hears more of this in private than in public, for a critic who becomes doubtful as to his position tends to indulge in silent meditation, or private discussions with his friends, rather than to take the public into his confidence with respect to his mental perplexities. It must be admitted that the habit often has irritating tendencies. A man will write me that he is shaken on a particular point, but without making any public statement or modifying his published views. Then other people who know nothing of his private admissions will proceed to shout aloud about the assured results of modern criticism, in reliance on those very published views about which their author has begun to entertain doubts. That sort of thing is very annoying. But, in the case of the more honest critics, it

is merely a transition stage; for, sooner or later, they must give public expression to the change in their attitude.

Unfortunately, however, the limitation expressed in the phrase "in the case of the more honest critics" is a very narrow one.

In showing this it will be convenient to begin with the case of Dr. Charles Augustus Briggs. As stated in a footnote to the published correspondence with the general Editors of the International Critical Commentary,[1] I have waited to deal further with this, because I wished to give them an opportunity of exercising the right of further reply which they were so careful to reserve. I did this, although I realized at the time that they were indulging in what is popularly called bluff, and I have no doubt that anybody who will carefully and impartially examine the facts that I am about to quote will see that this was so.

Under date the 28th of February, 1911, Doctors Briggs and Driver wrote to me as follows: "We have both been familiar with the Septuagint for many years, and have compared large parts of it very minutely with the Massoretic text. As the result of this comparison we both hold that, where the two differ, the Massoretic text is to be preferred until the reading presupposed by the Septuagint has been shown to be superior to it, especially by yielding a sense in better agreement with the context or by being preferable upon philological or grammatical grounds. . . . In such expressions as these we have proposed no novel doctrine, but we only voice the general judgment of sober modern scholars. . . . We cannot, therefore, consistently with these principles, formed long ago, without any reference to the present controversy, admit that a variant reading presupposed either by all or by some MSS.

[1] See *supra*, p. 104.

of the Septuagint, possesses any value as against the Massoretic text, or even casts doubt upon the Massoretic text until good cause has been shown for preferring it." These extracts contain the main reason for the inability of the general editors to discuss the scholarly part of my contentions, because, in truth and in fact, they are absolutely contradicted by the published writings of Dr. Briggs himself and of those whom the general editors have regarded as sufficiently sober modern scholars to be intrusted with the preparation of volumes of the International Critical Commentary.

First, as to Dr. Briggs himself: In the year 1899 he published a work entitled "General Introduction to the Study of Holy Scripture: The Principles, Methods, History, and Results of its Several Departments and of the Whole." The preface explains that in 1883 another volume had appeared, entitled "Biblical Study, its Principles, Methods, and History, together with a Catalogue of Books of Reference," and that the "General Introduction" is a new book incorporating the material of the earlier work, which in its turn had gathered up the work of the preceding fourteen years. Thus the "General Introduction" is the product of thirty years of work at the subjects with which it deals, and must be held to incorporate "principles formed long ago without any reference to the present controversy." It would be impossible to contradict the doctrines laid down in the joint letter more thoroughly than is done by Dr. Briggs in this work and in his Commentary on the Psalms.

The following extracts will give a pretty clear idea of his real position:—

"There can be no doubt that Rabbi Akiba and his associates at Jamnia not only fixed the Canon of the Old Testament, but also established the first official Hebrew text of the

Canon. There is a fixture in the consonantal text of Hebrew Manuscripts from the second century onwards, which can be accounted for only by the establishment at that time of such an official text. *This text was established in troublous times, when it was impossible to give the time and painstaking required for such an undertaking. There was no leisure to correct even the plainest mistakes. It was made by the comparison of a few manuscripts.* Tradition speaks of three, in cases of disagreement the majority of two always determining the correct reading"[1] (General Introduction, p. 175).

"*The Textual Criticism of the Old Testament lagged behind the New Testament. And the reason of it is, that scholars long hesitated to go back of the Massoretic text. . . . There can be no doubt, as Robertson Smith states: 'It has gradually become clear to the vast majority of conscientious students that the Septuagint is really of the greatest value as a witness to the early state of the text'*"[1] (*op. cit.*, p. 229).

"The study of the text of the Old Testament has been advanced in recent years by a great number of scholars in Germany, France, Switzerland, Holland, Austria, Italy, Great Britain, and America; scholars of all faiths, Jew and Christian, Roman Catholic and Protestant. They have vied with one another in this fundamental work of biblical study. *It has now become practically impossible for any scholarly work to be done on the Old Testament without the use of all the resources of Textual Criticism for a sure foundation*"[1] (*op. cit.*, p. 230).

"The next step in Textual Criticism is to ascertain the original autographs of the Canon of the Law and the Prophets, when they were first collected and fixed. *The Septuagint version of the Law and the Prophets, and possibly also of some*

[1] My italics.

of the writings, takes us back of the Maccabean text" [1] (*op. cit.*, p. 238).

Dr. Briggs has, moreover, contributed to the International Critical Commentary a work on the Psalter (dated 1906). The preface contains the following remarks that appear to be material to any consideration of the textual opinions expressed in the body of the work: "This commentary is the fruit of forty years of labour. . . . I have spared no pains upon the text of the Psalter, not only in the study of the Versions, but also in the detection and elimination of the glosses in the search for the original texts as they came from their authors. . . . A public Version, in my opinion, should be less pedantic and literal than the Revised Version, *and not so slavish in its adherence to the Massoretic text.*[1] In this respect the older Versions, especially the Version of the Book of Common Prayer, is [*sic* H. M. W.] to be preferred; for while it is less accurate than the later Versions, it preserves many readings of the Greek and Vulgate Versions which later English Versions unwisely rejected."

I proceed to quote some of the relevant dicta of this work:—

"The earliest Version of the Psalter was that of the Greek Septuagint, translated from the Hebrew in the second century B.C. *at Alexandria, and preserved in many ancient codices, the earliest of the fourth century* A.D., *giving evidence as to an original Hebrew text, many centuries prior to any Hebrew authorities"* [2] (p. xxv).

"It was made from the best MSS. accessible at the time, and *gives evidence as to the original Hebrew text of early second century* B.C., *three centuries earlier than the text fixed by the school of Jamnia, and twelve centuries earlier than the*

[1] My italics. [2] Dr. Briggs's italics.

Mass. text as fixed by Ben Asher and preserved in the earliest Hebrew codd." [1] (*ibid.*).

"The text of the LXX where there is a consensus of readings *has a value which has not been estimated by critics as highly as it ought to be,* so far as the Psalter is concerned. *In a very large number of cases this common text is to be preferred to the Hebrew consonantal text*" [1] (p. xxviii).

"The text of the LXX carries us still farther back, to a Hebrew text of the second century B.C., very soon after the Psalter had received its final editing" (p. xxxiii).

"*The divine names were inserted very often in order to make it evident that God was the subject or object of the verb*" [1] (p. liii).

"*In a very large number of instances the ancient Versions, especially the LXX and Vulgate, are more correct than the unpointed Hebrew text.* MODERN SCHOLARS HAVE GREATLY ERRED IN A TOO EXALTED ESTIMATE OF THE CORRECTNESS OF THE UNPOINTED HEBREW TEXT IN THIS REGARD. THE MEASURES MAKE IT EVIDENT THAT EVEN THE UNPOINTED HEBREW TEXT, BY ITS NUMEROUS ADDITIONS AND CHANGES OF THE ORIGINAL, IS AS TRULY AN INTERPRETATION OF AN OLDER TEXT AS THE LXX AND OTHER ANCIENT VERSIONS [2] (*ibid.*).

Further down on the same page we are told that not infrequently both *Elohim* and *Adonay* "appear as a conflation of the original text." I think I have quoted enough to show that Dr. Briggs, at any rate, is in no case to put forward any vindication of either Dr. Skinner or himself, and that in this controversy he has taken a part which is inconsistent with the elements of truthfulness and honor. So far as he is concerned, the statements about "the principles formed long ago" were a tissue of falsehoods. We shall now see that he

[1] My italics. [2] My italics and capitals.

does not stand alone in rejecting the preposterous doctrines that he falsely professes to accept in the correspondence. I begin by quoting Professor Toy, the author of the volume on Proverbs in the International Critical Commentary. In his case we are happily dealing with an honorable man. On p. xxxii of the work he writes: "Of these the oldest and, for the criticism of the text, the most valuable is the Septuagint. It represents in general an older text than that of the received Hebrew tradition." As he was not prepared to sacrifice his convictions on the altar of the documentary theory, Dr. Toy, in reviewing my "Essays in Pentateuchal Criticism," wrote as follows: "Several writers have recently dwelt on the fact that the Septuagint and other ancient Versions differ considerably from the received Hebrew text (the Masoretic) in the use of divine names. . . . The Septuagint translators, it is commonly supposed, followed their Hebrew text faithfully, and this text is equally authoritative with the Masoretic (in both cases internal evidence must decide as to the value of readings): it is concluded that the latter is not a trustworthy guide for a division of documents based on divine names, and this is Mr. Wiener's contention. While this point calls for a more thorough examination than has yet been given it, the conclusion just stated is not out of keeping with the tone of modern criticism. As is well known, critics generally hold that our Hebrew text has suffered greatly from scribes and editors in the process of transmission. It is agreed that divine names have been changed in Chronicles, Psalms and elsewhere, why not in the Pentateuch?"[1] Dr. Toy, it will be seen, is not prepared to contradict the lifelong principles of Dr. Briggs and himself on textual Criticism for the sake of the documentary theory.

[1] Christian Register, April 28, 1910, p. 455.

And yet he is a man who suffered for his conscientious beliefs when it appeared to him that the higher criticism was true. My authority is Dr. Briggs, and I quote the account he gives in the General Introduction that I have already cited so often. "The first to suffer for the Higher Criticism in the United States was C. H. Toy, who was Professor of Old Testament Interpretation in the Baptist Theological School, at Greenville, S. C., from 1869 to 1879. In the latter year he was forced to resign because of his views as to Biblical Criticism" (p. 286). As he was the first in the United States to suffer for his Higher Critical views, so has he been the first to admit that those views might be unfounded. *Amicus Plato, magis amica veritas.*

Similarly with Dr. H. P. Smith, from whose pen comes the volume on Samuel in the International Critical Commentary. He writes: "In the absence of light from the MSS. we must seek the help of the ancient versions. And among these the Greek easily takes the first place, owing to its age and to the fact that it had a Hebrew original very different from the one known to us. If we had the LXX in its earliest form, it would be equivalent to a Hebrew codex of the first Christian century, or even of earlier date" (Samuel, p. xxxi). In accordance with this, Dr. Smith has publicly stated that the work of Professors Eerdmans and Schlögl and of the present writer necessitate a careful reëxamination of the whole field of textual and historical Criticism.[1] Dr. Smith, too, according to the same repertory of convenient information, was one of the first to suffer for his critical views. Dr. Briggs writes: "The discussion of the Higher Criticism in the United States began

[1] Journal of Biblical Literature, vol. xxx. (1910) p. 19, *note*. See also his statement in the text: "Each year we have the necessity forced upon us to learn something new and to unlearn some of the things we had supposed settled."

for the Presbyterian body, in the plea for freedom of criticism in my inaugural address as Professor of Hebrew in the Union Theological Seminary, N. Y., in 1876. . . . I was sustained by Henry P. Smith. . . . Prof. Henry Preserved Smith was tried on similar grounds. . . . He was also suspended from the ministry in the same year by the Presbytery of Cincinnati, which action was sustained next year by General Assembly" (*op. cit.*, pp. 286–289). Such men as Doctors Toy and Smith must command the respect and admiration of supporters and opponents alike.

It is noticeable that these two men — the two International Critical Commentators who suffered for their beliefs, but were not prepared to throw away their honor for the sake of the documentary theory — had used far less emphatic expressions as to the rôle of the LXX in textual criticism than Dr. Briggs, or even, as we shall see, Dr. Driver himself.

One other International Critical Commentator must be quoted, the late Dr. William Rainey Harper, whose name is affixed to certain papers on Pentateuchal Criticism that appeared in the *Hebraica,* and attracted attention some years ago. The preface to his "Amos and Hosea" contains a polemic against Dr. Driver in the course of which he writes: "It is unquestionably the first duty of a commentator to reconstruct the text as best he may" (Amos and Hosea, preface, p. viii). Further on, in the course of his introduction, he says of the LXX: "In the correction of MT, LXX is most helpful. . . . When due allowance is made for the errors of LXX there still remain many passages in which its text is preferable to M.T." (p. clxxiv).

I come now to Dr. Driver. The attitude as to textual criticism assumed by the general editors of the International Critical Commentary in the letter of the 28th of February,

1911, is more like his general attitude than that of Dr. Briggs. But Dr. Driver himself does not altogether adopt the extraordinary contentions of the letter. I have pointed out some of the ways in which he differs from Dr. Skinner (and consequently from the defense of Dr. Skinner) in reviewing his "Additions, etc.," in the Bibliotheca Sacra for October, 1911, and also in the second answer to Dr. Gordon (*supra*, p. 118). Perhaps the strongest instance of the divergence between the Dr. Driver of textual criticism and the Dr. Driver of the joint letter is, however, to be found on pages lii f. of his "Notes on the Hebrew Text of the Books of Samuel," where he quotes and indorses Klostermann's famous dictum "Let him who would himself investigate and advance learning, by the side of the other Ancient Versions accustom himself above all things to the use of Field's *Hexapla*, and Lagarde's edition of the Recension of Lucian." Why does this principle suddenly cease to be valid when Dr. Skinner's conduct comes up for consideration?

It must not be thought that in laying stress on the question of textual criticism I am urging a principle that is rejected or doubted in the case of other ancient works that have depended on a MS. tradition. On this point let the identical Dr. Briggs speak in the words he has adopted in the work representing the carefully matured convictions of so many years which I have already had frequent occasion to quote: "Biblical Textual Criticism derives from general Textual Criticism its principles and methods of work. These differ in their application to the Bible only as there are special circumstances connected with the biblical writings that differ from those of other writings. As Hort says: 'The leading principles of textual criticism are identical for all writings whatever. Differences in application arise only from differences in the amount, va-

riety, and quality of evidence: no method is ever inapplicable except through defectiveness of evidence'" (General Introduction, p. 231).

Now there can be no doubt that the well-known rules of textual criticism entirely condemn the practice of accepting readings on the authority of any text whatever without investigation. In proof of this I need only quote some of the observations made by Professor J. P. Postgate in the article on "Textual Criticism" in the eleventh edition of the Encyclopædia Britannica. He writes as follows:—

"Where the critic has ascertained the earliest form of a reading in his text, he will apply to it the tests of intrinsic probability. No part of a text can be considered exempt from this scrutiny, though for a very large part of it it may be dispensed with. *It should, however, be here observed, that whoever takes a reading without investigation, on the authority either of a manuscript or of a great scholar, or of a number of scholars, ceases for the time being to be a textual critic*"[1] (vol. xxvi. p. 713b).

"Illegitimate doubt is the uncertainty of the doubter as to whether he has examined the whole of the evidence. Such doubt is much more frequently felt than acknowledged, and its effect upon critical work is highly injurious. On the one hand, *it is apt to take refuge in an uncritical acceptance of the traditional readings,* and, on the other hand, to produce a crop of hesitant and mutually destructive conjectures which a reader naturally resents as a needless waste of his time"[1] (*ibid.*, p. 714a).

"Authority, as already hinted, has properly no place in textual criticism. For his facts a textual critic may, and often must, be beholden to others: but never for his opinions. It

[1] My italics.

adds nothing to the evidence for a reading that it has been approved by a Lachmann or a Madvig or rejected by a Stoeber or a Carutti: and an appeal to names on any such question confuses issues and deters inquiry" (*ibid.*, p. 715b).

The net result of all this is to show, beyond any possibility of doubt, that the general editors of the International Critical Commentary have belied every principle of scholarship, and even of honor, in violation of the very doctrines that one of them has accepted and striven to propagate throughout his life. To all appearance they have as little compunction about deceiving their readers as a fraudulent company promoter has about deceiving the public whom he hopes to despoil.[1] I use this clear language purposely, because I feel that a state of affairs has arisen which must be terminated. We have to deal with a number of professors who abuse their positions in the last way one would expect, for it must be remembered that the public supposes them to be men of high standing actuated by the purest motives, adopting and advocating particular views because those views arise necessarily from the relevant evidence. Now I feel that the time has come when their conduct has passed all reasonable limits, and it is a public duty to say so. If men who should be, and profess to be, servants of truth undertake to abuse their positions by deliberately propagating falsehood, a time comes when it is necessary to denounce them publicly as falsifiers who would never dare to enter a witness-box to sustain their allegations on oath and under cross-examination. Dr. Alexander R. Gordon, of the Presbyterian College, Montreal, affords an excellent illustration of this in the correspondence that ap-

[1] In the case of Dr. Driver the best illustration of the above statement is the volume on Exodus in the Cambridge Bible for Schools and Colleges. See *infra*, No. 12.

pears on pages 114–123 of this volume. In reply to questions whether he had believed Dr. Skinner's representations when he read them, he alleged that he could no more say "yes" or "no" to such questions than he could to the interrogation "Have you left off beating your mother?" In the witness-box he would be on oath, and subject to cross-examination. Dr. Gordon would have either to give straightforward answers to straightforward questions or to take the consequences, which would be ruinous to his reputation; and it would appear clearly that he had been duped by Dr. Skinner. A court of justice is not to be deceived by the methods which are apparently thought good enough for theological students.

Similar considerations apply to Dr. Skinner himself. I once wrote to Dr. Driver, in a private letter for the information of the general editors and Dr. Skinner, that, if the latter brought an action for libel against me, it would be the end of the school of Astruc in England, and I now repeat this statement for the information of a larger public. I propose to devote some little space to explaining exactly why this is so, because in some quarters there appears to be misunderstanding as to precisely what Dr. Skinner has done.

The controversy which has done so much to expose the conduct of the higher critics began with a very innocent question published in the *Expository Times* for May, 1909, by the Rev. A. P. Cox, referring to my article in the Bibliotheca Sacra for January, 1909.[1] Dr. Skinner answered in the same number, but it was perfectly clear that he had not read my article. Thus he wrote: "in Genesis . . . . the LXX [differs from the Jewish version] in 49 [cases] — about one-sixth of

[1] Now reprinted, with slight modifications, in the first chapter of my Essays in Pentateuchal Criticism.

the whole." "These facts were not discovered by Mr. H. M. Wiener" — that, at any rate, was a great deal truer than he suspected. Had he read my article he would have found that "these facts" were not facts. He then proceeded: "but are the common property of scholars, whether scholars have always given due weight to them or not. It does not on the face of it look as if very much capital could be made out of so limited a divergence." After some further discussion, which did not in itself prove that he had not read my article, Dr. Skinner proceeded to betray his ignorance again by claiming: (1) that Greek copyists were likely to observe the distinction between the two words less carefully than Jewish scribes; and (2) that where MT and LXX differ the cases where God is used for the Tetragrammaton "show an immense preponderance over those where 'Lord' is used for Elohim, the preference for the common word being as marked as it is intelligible." This was a particularly unnecessary betrayal of ignorance, because Mr. Cox had emphasized the fact that I had adduced evidence showing that the versional variants rest on divergent Hebrew texts, and are not due to avoidance of the Tetragrammaton by translators. Hence a careful reading of the question Dr. Skinner was purporting to answer would have put him on his guard in these matters. After some further discussion, in which he compared the critical achievements to the discovery of America, Dr. Skinner thought fit to lay down what my arguments (which he obviously had not read) could ever accomplish. Now I do not know what standards of honor commend themselves to higher critical minds: but, from the point of view of laymen, it is certain that Dr. Skinner transgressed in two respects: First, although he had not troubled to read my work, he passed adverse judgment on me. It is not the custom among

men of honor to condemn what they have not read.[1] For them, "Thou shalt not bear false witness against thy neighbor" is still binding. Secondly, he was deceiving his public by making false representations. Any reader of his note who had not independent knowledge must have supposed that he had read my article, and that he was putting forward statements which he had reasonable ground to believe to be true. In these circumstances I did my best to recall him to a sense of right without exposing him too openly. My reply, which was published in the *Expository Times* for July, 1909, was designed to draw his attention to the article he had not read, and to the unsoundness of his statements of fact and his arguments.[2] Thus he had twice had public warning — once in Mr. Cox's note and once in mine — of the true state of affairs, and this was reinforced by Professor Schlögl's correction of him in the September number of the same magazine. It was in those circumstances that he took it upon himself to repeat his representations in his volume on Genesis. Of course he could not support his published statements in the witness-box without committing direct perjury, and that is why there can be no question of his bringing proceedings for libel. I did all I could to keep him straight after his first offense by the note in the *Expository Times:* but if the principal of a theological college, after repeated warnings, persists in giving currency to statements which he could not support in the witness-box without committing perjury, a time comes when the interests

[1] It seems, however, to be the usual practice among higher critics. I could give instance after instance that has come to my knowledge, and may perhaps do so on another occasion should necessity arise.

[2] I fear that Dr. Gordon has not realized this. It is, to say the least, doubtful whether he has done me the justice of carefully reading and considering the Bibliotheca Sacra article and comparing it with Dr. Skinner's discussion in his Genesis.

of the public necessitate a full and clear exposure. There is a further reason why no action can be brought. At present the critics are able to use their control of the technical press in the interests of their theories: but an action would give wide publicity to inconvenient facts, and would clearly expose the tactics that they have pursued for years.

One other point must be made. Two friends of Dr. Skinner's wrote to me independently to say that they did not think that he intended to deceive. I answered one by giving him some further facts: whereupon he did not pursue the subject. But is the position tenable? No, it is not; for every man must be supposed to intend the natural and necessary consequences of his own acts. If Dr. Skinner did not intend to deceive, it was open to him (both before and after I had warned him) to tell the truth about my work. He did not do so, but went out of his way to put forward statements that were false, and that he must have seen to be false if he examined my work and Professor Schlögl's. Now in the letter of the 4th of January, 1911, the general editors assert, no doubt truly, that Dr. Skinner had told them that he had examined this work. If this statement of Dr. Skinner's be true — and so far as my work is concerned there are expressions in his "Genesis" which lend it some confirmation — I do not see how anybody can suppose that Dr. Skinner did not intend to deceive. According to his own account, he knew the truth but chose to make statements that were untrue. If he did not intend to deceive by acting thus, what did he intend to do?

Unhappily his offense is a continuing offense, for every fresh reader of his book is likely to be deceived unless he has had warning *aliunde*, and neither Dr. Skinner nor his general editors can be ignorant of this. If, therefore, there were no intention to deceive, the book would long since have

been called in. Old Testament Studies have indeed come to a pretty pass when theological professors and principals can behave as these men have been doing; but obviously matters cannot continue thus. The position is in fact impossible and must shortly be recognized to be so. If men occupying such positions wilfully and persistently give currency to false statements which they could not support in the witness-box without committing perjury, they must in the long run prove the most efficient means of destroying the theories they support.

XII

DR. DRIVER ON EXODUS[1]

[From the *Bibliotheca Sacra*, January, 1912.]

Dr. Driver's long-expected volume on Exodus has at last appeared. A reviewer cannot welcome it with satisfaction, for to treat the volume conscientiously is an exceptionally odious as well as an exceptionally difficult task. The present writer, at any rate, in the course of a singularly unfortunate experience, has never found a reviewer's labors so distasteful or performed them with so much reluctance as in the present instance.

On Dr. Driver's own showing, the book has taken a long time to write. We are told in the preface that the greater part of the notes were in type when the commentary of Mr. Mac Neile appeared, i.e. in May, 1908; and, though the preface itself is dated 5 February 1911, a perusal of the volume shows that the bulk of it is old, and written without any reference to much of the recent work on the subject. For instance, there is not a single reference to the German books of Eerdmans. There are occasional references to some of his English articles, and to work of other writers that has appeared more recently than the first instalments of the "Alttestamentliche Studien." Not that Dr. Driver minds referring to German books — far from it. That is not the reason for

[1] The Book of Exodus in the Revised Version, with Introduction and Notes. By the Rev. S. R. Driver, Regius Professor of Hebrew and Canon of Christ Church, Oxford; Hon. D.Litt. Cambridge and Dublin, Hon. D.D. Glasgow and Aberdeen; Fellow of the British Academy; Corresponding Member of the Royal Prussian Academy of Sciences. Cambridge: At the University Press. 1911.

his reticence. And there is no direct reference to my work. Two passages in the notes may have been influenced by me (though I may be wrong in this inference), and with these I will deal later on. But there is a sentence in the preface which can be interpreted only as a claim that he was entirely acquainted with the facts and arguments I had advanced. After stating that, in his opinion, his "conclusions . . . . rest in their broader outlines upon secure foundations," he continues: "I say this with full knowledge of what has been said by various writers on the other side. Assiduous and painstaking as the labours of some of these writers have been, it does not appear to me that they have been successful either in shaking the great cumulative argument which shows that the traditional position is untenable, or in finding a better explanation of the facts presented by the Old Testament itself than, substantially, — I expressly do not say, in every particular, — that which is commonly associated with the name of Wellhausen." Observe there is a claim to "*full knowledge of what has been said by various writers on the other side.*" It is dated 5 February 1911. Writing to me exactly three weeks previously, Dr. Driver had made the very much more moderate statement that he was "acquainted with my writings and had read considerable parts of them." "Considerable parts" is not a synonym for full knowledge or even an adequate basis for full knowledge: yet, of course, it might be possible to argue that Dr. Driver had spent the whole or some part of the three weeks in obtaining the full knowledge he here claims. Unfortunately the contents of the book show that neither he nor his general editor had that full knowledge or anything like it. I regret to say that they are of such a character as to throw a most unfavorable light alike on this

statement, and on his conduct as a general editor of the International Critical Commentary.

In writing on these subjects, I have repeatedly drawn attention to the fact that the ordinary statement of the Wellhausen school that in early times all slaughter was sacrificial cannot be sustained. On pages 175 ff. of "Essays in Pentateuchal Criticism" I was careful to make this point at full length, particularly explaining that Dr. Driver contradicted himself on the subject in his commentary on Deuteronomy, following the ordinary Wellhausen allegations in one place and contradicting them in a note on the same page. Now I drew attention to this point again in the article on Dr. Skinner in the Bibliotheca Sacra for October, 1910[1] (which Dr. Driver claims to have read carefully), and again in the *Expositor* for November, 1910, in an article to which I referred in the correspondence.[2] If, therefore, Dr. Driver really has "full knowledge" of any conservative point, this must be it. Will it be believed that in this commentary on Exodus he again stultifies himself by a similar self-contradiction on this very question? On page 223 the phrase of Exodus xxi. 37 (E. V. xxii. 1), "and kill it," comes up for consideration. Dr. Driver writes: "The word is the one regularly used of slaughtering cattle for food (Gen. xliii. 16; 1 Sam. xxv. 11 *al.*)." These passages and others make it quite clear that non-sacrificial slaughter for food was common. Yet, at the top of page 207, in commenting on another Hebrew word, he writes, *without any reference to the evidence of Exodus xxi. 37 and the other passages,* "Since in early times animals were seldom, if ever, killed without an accompanying sacrifice." Other instances to which I have drawn attention are not cited. Now I have to ask, Is it possible that a man who has enough in-

[1] *Supra*, p. 62. [2] Page 94.

telligence to produce a commentary on Exodus should continue repeating the statement and contradicting himself on the point if he in fact had the full knowledge he claims? To me it appears that this question can be answered only in one way.

Another point that is of very great importance is the matter of altars. On page 291, "the horns of it" (Ex. xxvii. 2) suggest to Dr. Driver such remarks as the following: "these were an indispensable part of an altar (cf. xxx. 2, 3), and were regarded as its most sacred part . . . . a criminal seeking asylum seized hold of them (1 Kings i. 50; ii. 28)." Now I have explained (*op. cit.*, p. 181) that an altar of earth or unhewn stones could have no horns since the nature of the materials would not allow them. A "full knowledge" of my writings would, therefore, have shown Dr. Driver that his statement that the horns were an indispensable part of an altar" was incapable of being supported.

A third example may be taken from his conduct in respect of Dr. Kent's book "Israel's Laws and Legal Precedents." One of the most eminent living authorities on ancient law wrote to me that Dr. Kent's book was "in fact very disgraceful." If Dr. Driver likes to submit my review of that book (a copy of which was sent to him in 1908) to any Oxford law don in whom he has confidence, he can obtain independent confirmation of this view. Yet he actually recommends the volume on page 2 of the eighth edition of his "Literature of the Old Testament," and follows up this recommendation by referring his unfortunate readers to it in his "Exodus" (pp. lxiii. *note*, 418 *note*).

There is no object in multiplying instances. Dr. Driver's "knowledge" is obviously not "full." "Studies in Biblical Law," "Essays in Pentateuchal Criticism," and the article on "Priests and Levites" in the July, 1910, number of the Bib-

liotheca Sacra,[1] *together* answer most of his points. In some cases it might be open to Dr. Driver to reply that, to his mind, the answers were not convincing; but that cannot well be the case with the instances I have considered.

Nor again could this be said of the uncertainty of the Massoretic text as to the Divine appellations, a matter of which Dr. Driver says no word in spite of his formal reservation in the correspondence with me of the right to treat the matter in whatever manner he might think proper. That question has now reached a stage in which it can no longer be pretended that complete silence is compatible with honorable candor towards his public.

It appears to me, therefore, that his conduct raises questions of great and fundamental gravity touching the responsibilities of a writer to his readers, especially when those readers may in many cases be school-boys or other junior students who stand in peculiar need of protection. Dr. Driver has raised questions of conscience that are of greater moment than any questions of scholarship. How far is any writer justified in solemnly holding himself out as possessing knowledge that he does not in fact possess? How far is he justified in asking his readers to believe him or accept his conclusions on the strength of this profession of knowledge? How far is he justified in recommending or referring his readers to very disgraceful books without a word of warning? How far is it right that these things should be done under the shelter of the name of a great University? Are such actions creditable or even excusable features of a "Cambridge Bible for Schools and Colleges," or indeed of any Bible commentary? Is this what the public expects of professors and others who undertake to give instruction on the Bible to more or less defense-

[1] See *infra*, No. 20.

less students? These are questions to be answered not merely by Dr. Driver and his general editor, but also by those who are responsible for the reputation of the Cambridge University Press, by all who are engaged in teaching or learning the Bible, and by the general public.

It remains for me to say a few words on the passages that appear to have been influenced by my work. In Exodus vi. 3, Dr. Driver adopts הודעתי for נודעתי, and in xviii. 6 הנה for אני; but in both instances it seems probable that this is the result of an independent yielding to the overwhelming evidence, and not to anything I have written. There are, however, two other passages where I suspect something more. The first of these is in the note on Exodus xxi. 6. On the words "the door," Dr. Driver writes: "not as has been supposed, of the sanctuary." The "supposition" to which he alludes in these distant terms is enshrined in his own commentary on Deuteronomy. Why does he now contradict it without assigning any reason?[1] Has he really discovered that a mound or stone will not develop a door or doorpost even if it be called a sanctuary?

The other passage is Exodus xxxiii. 7, "the tent." On this he writes (p. 359): "the rendering '*a* tent' which Hebrew idiom would also permit, does not suit the sequel, which implies that not a casual, but a *definite* tent, is meant." No name is mentioned, but it seems not unlikely that this note is due to my insistence on the rendering '*a tent*' as being here the correct equivalent of the Hebrew. It is therefore right that I should deal with the argument. It is unnecessary on the

[1] On his present approval of the conjecture that *elohim* in this passage should be rendered 'gods,' and understood of the household gods and of Kautzsch's view that the reference is to an image of God, I need only refer him to my Notes on Hebrew Religion, pp. 24 f.

point of definiteness to do more than to quote Dr. Driver's note on page 160 ("in *a* book," Ex. xvii. 14). After citing Dillmann's words, "the Hebrew always writes 'in *the* book,'" Dr. Driver continues in his own language thus: "an object being conceived as definite in Hebrew not only because it is already known or has been mentioned before, but also because it is taken for a particular purpose, and so made definite in the speaker's or writer's mind. See numerous examples in Gesenius-Kautzsch, sect. 126 r. s.; e. g. Ex. xvi. 32 *the* omerful, xxi. 20 with *the* rod, Num. xxi. 9 put it on *the* pole, Jos. ii. 15 with *the* cord, etc.; in all such cases we naturally say *a*." Precisely: *a* casual tent taken for a particular purpose and so made definite in the writer's mind would be expressed by *the* in Hebrew, *a* in English, and that is exactly what the sequel requires, for Dr. Driver's own next note on the subject enforces this truth. He writes: "*pitch it*] Heb. *pitch it for himself:* it was intended particularly for his own use, in his converse with God." Exactly; and, that being so, it cannot (as Dr. Driver believes) have been the abode of the Ark. It is incredible that Moses should have been in the habit of taking the shelter of the Ark, and pitching it particularly for his own use while leaving the Ark in the camp in a denuded and unprotected condition. For the rest, Dr. Driver has entirely failed to meet the points which, as I have shown elsewhere,[1] make his view impossible.

There are many other points that are open to criticism; and, in ordinary circumstances, I should have dealt with some of these. But, having regard to the peculiar nature of this publication, I do not think it right to do anything that might have the effect of distracting attention from the larger issues in-

[1] Essays in Pentateuchal Criticism, pp. 90–102; cp. The Origin of the Pentateuch, pp. 53 ff.

volved. We have to deal with a course of conduct that affects the good name and honor of two Universities, and the interests of youthful students who are not yet able to protect themselves.

FROM DR. DRIVER

Ch. Ch., Oxford,
Dec. 7.

Dear Sir:—

I am much obliged to you for sending me a proof of your note on Exodus. I do not propose to write any reply to it: I will merely, as I am writing to you now, point out an error of fact, into which I think you have fallen, with regard to what I say respecting Ex. 21. 6. In my Commentary on Dt., p. 184, I cannot see that I explain the 'door' in Ex. as that of the sanctuary: I say that I think the clause containing the word is ambiguous; but I am not aware that I express any preference for the view that the door is that of the sanctuary. Nor can I see that in my note on Ex. 21. 6 I "approve" the opinion either that *elohim* mean 'gods', or that it denotes an image of Yahweh; I *mention* these views, as held by certain scholars; but I say nothing (such as 'This is better', or 'more probable') to suggest that I adopt either of them myself.

Believe me,
Yours sincerely,
S. R. Driver.

TO DR. DRIVER

9 Old Square,
Lincoln's Inn, W. C.

Dear Sir:—

Thank you for your letter. I note what you say with regard

to the explanation of Ex. xxi. 6 in your Deuteronomy: but I was very careful in my choice of language. The word I selected — 'enshrined' —was intended to cover, and does, I think, in fact cover exactly that interpretation of the Deuteronomy note which you now tell me is the right one. It is the case that when you wrote your Deuteronomy you regarded as possible a view of Ex. xxi. which you now regard as impossible for some reason or reasons which you do not state: and my expressions appear to me to meet precisely this condition of affairs.

As to the other question there is, I think, a *bona fide* difference of opinion between us as to the effect of your note. If I am not mistaken this arises from a difference of attitude. When I read it I reason thus: 'What would any junior student understand by this? One view is mentioned only to be rejected: certain other views are cited without any suggestion that there is any objection to them or any warning as to adopting them: and other interpretations are not even mentioned. A commentator who puts forward certain views without objection, question, warning, expression of doubt, or alternative, must be held to recommend those views. Surely he cannot be supposed to put them forward because he does *not* adopt them. Surely, too, no schoolboy would suspect that the commentator regarded them as incorrect. If the commentator does not believe the interpretations he himself adduces without doubt or question, what on earth does he believe or mean his readers to believe?' I cannot see that there is any possible answer to this *from the standpoint of the public for whom the book was written.*

Believe me,

Yours sincerely,

8 December 1911. HAROLD M. WIENER.

XIII

THE NEGEB IN EXODUS

[From the *Bibliotheca Sacra*, April, 1912.]

THE use of the word נגב, *Negeb*, for "south" in chapters xxvi.–xl. of Exodus has long been a crux, since the word properly means the dry land in the south of Judah, and this was not to the south of the Israelites in the wilderness. As Robertson Smith emphatically put it: "Moses could no more call the south side the Négeb side of the tabernacle than a Glasgow man could say that the sun set over Edinburgh."[1] J. Weiss in his recent edition of Exodus[2] says, with reason, that in xxvi. 18 the word is a gloss, but he does not go into the evidence for the matter. I find that the LXX presents some striking phenomena in some of the relevant passages, and it seems to me desirable to draw attention to these. The final solution of the problem cannot be reached until more study has been devoted to the textual history of the concluding chapters of Exodus, but I think that this is likely to be helped by calling notice to the singularities that have special reference to our difficulty.

There are five passages in which the Massoretic text presents us with the word; viz. xxvi. 18 with the recapitulatory passage xxxvi. 23, xxvii. 9 with its recapitulatory passage xxxviii. 9, and finally xl. 24 (LXX 22). The last of these passages does not call for special mention, as the LXX does not differ from the Massoretic text, and attention will therefore be concentrated on the other four.

[1] The Old Testament in the Jewish Church (2d ed.), p. 326. For the contrary view, see the Bibliotheca Sacra, vol. lv. (1898) p. 524.

[2] Das Buch Exodus übersetzt und erklärt. Graz und Wien. 1911.

It must first be noticed that in all four cases the Massoretic text presents us not with one word to denote direction, but with two, "the south side, southward," etc. In all these cases the first word only is *Negeb,* the second being the unexceptionable תימנה. The tautology is, of course, strongly in favor of the gloss theory. And it is supported by the fact that in three instances the LXX clearly had only *one* word, while the fourth passage (xxxvi. 23) is missing altogether from the pre-Hexaplar Greek. But this is not all.

In Exodus xxvi. 18, 20, 22, the Massoretic text has the order south, north, west. Not so the LXX. It has north, south, west (though there is some weak authority obviously influenced by the present Hebrew for the Massoretic order). Further, it uses, for "south," τὸ πρὸς νότον, i.e. its rendering for תימנה in verse 35 of the same chapter, where even the Hebrew does not read *Negeb.* Hence it seems that the view of Weiss is here strongly supported by the Greek evidence.

In the other two passages the facts are more complicated. While this makes them harder to interpret it certainly adds to the interest. In chapter xxvii. a convenient conspectus of the important facts may be given as follows:—

Reference.	Massoretic Text.	Septuagint.
Ex. xxvii. 9.	On the side of the Negeb, southwards.	(1) On the southward side (τὸ πρὸς λίβα being used), B and four cursives. (2) On the northward side, M(margin) and about five cursives. (3) On the southward side(τὸ πρὸς νότον), F, M(text), and the great majority of Septuagintal authorities.

Reference.	Massoretic Text.	Septuagint.
Ex. xxvii. 11.	On the northward side.	(1) On the eastward side (ἀπηλιώτην being used), B, M (margin), and three cursives. (2) On the northward side, A, F, M (text), and almost all the other authorities.
Ex. xxvii. 12.	On the westward side.	On the westward side.
Ex. xxvii. 13.	On the eastward side, orient-wards.	(1) On the southward side [νότον] B and a number of cursives. (2) On the eastward side [ἀνατολάς], A, F, M(text), and almost all authorities.

To appreciate these facts fully it will be necessary to have regard to the evidence in the recapitulatory passage; but certain phenomena may be noted at once. Only in the case of verse 12 is there complete agreement. In the other verses the LXX is divided against itself. F and the text of M, together with the great majority of the authorities, clearly represent a Hebrew that differed from the Massoretic text only in having one expression, instead of two, for south in verse 9, and for east in verse 13. While, therefore, they testify to the fact that the Massoretic text is glossed, they do not otherwise assist us to recover the original order of the LXX. If we turn from them to B, the best MS., we find that of the four quarters, *two* (verses 9 and 13) are south, and the north is entirely missing. Further, two words are used for south, **λίβα**, in verse 9, and **νότον** in verse 13. Obviously there must originally have been a "north," and one or other of these two words has replaced the earlier text. Which of the two is it?

The answer is clear for three reasons: (1) in verse 9, B's "south" may be an accommodation to the later Hebrew, but it cannot be so in verse 13. Hence it is more likely to be corrupt in the earlier verse; (2) "north" has been preserved by some good authorities as the original reading in verse 9; and (3) the presumption is in favor of the original translators having used the same word νότος as in the other passages of these chapters rather than λίψ. Hence we may infer that the original LXX had north, east, west, south. It should further be noticed that the rarer ἀπηλιώτης for "east" in verse 11 is far more likely to be the original text of the LXX than the common ἀνατολάς.

Much of this receives striking confirmation from the phenomena presented by xxxviii. 9–13 (in the LXX xxxvii. 7–11). The material words in the Massoretic text are the same as in the earlier passage, but the best LXX text has five quarters. In xxxvii. 7 = M. T. xxxviii. 9 it reads "southwards," λίβα being used, but M(text) and many cursives have νότον. In verse 9 it has two clauses — the earlier "northwards," the second "southwards," νότον being used. The second clause is, however, omitted by M and many other MSS. In verse 11 it has ἀνατολάς with very weak evidence for νότον. It should be added that an old Latin copy reads "north" in verse 7, "east" in verse 10, and "west" in verse 11.

I think that the five quarters in this passage afford corroborative evidence that the original Septuagintal text of chapter xxvii. knew nothing of the Negeb. The order was different, and, alike for east and south, it found only one word in its Hebrew. In the latter respect it indubitably had a purer Hebrew text than our Massoretic text. Whether its order of the four quarters is the more original is a subject on which

I am not prepared to offer an opinion. And with respect to its text in xxxvii. it seems to me that judgment must be suspended until the whole problem of the text of the concluding chapters of Exodus has been thoroughly investigated.

XIV

THE "KING" OF DEUTERONOMY XVII. 14–20

[From the *Bibliotheca Sacra*, July, 1911.]

HAPPENING to glance at the Hexapla, I was struck by the fact that in Deuteronomy xvii. 14 *archōn*, "ruler," instead of the natural *basileus*, "king," corresponded to the Hebrew *melek*, "king," in the Septuagintal text. Nobody who knows Greek could regard this as a *translation*. Nor did the Old-Latin translators, for they render by *princeps*. On following up the clue, I found reason to suppose that the form of this law known to the LXX differed slightly, but very materially, from that of the Massoretic text. Various considerations unite to suggest this conclusion. It is true that there are other passages in which *archōn* and its cognates appear to represent *melek* and its cognates, but in each case the Septuagintal text must have been different from our Hebrew. Then, too, some of the variants in the Pentateuch are not at all favorable to the view that this law was originally a law of the kingdom, but distinctly suggest that the text has had a history. Again, the other variants in this passage itself show that there was once a text relating perhaps to rulers, not a single king, in which the throne was unknown and no suggestion of the hereditary character of the office existed.

As the inquiry is necessarily very technical, I propose, for the sake of those readers who may be interested in the Pentateuchal problem and yet do not care to grapple with the minutiæ of various Greek and Hebrew readings, to set out a

translation of what I believe the original Septuagintal text to have been, in parallel columns with the ordinary R. V. rendering. For the sake of convenience I italicize the differences. My reasons are given in detail in the following discussion, but everybody can see for himself how different the historical setting of the two versions would be.

R.V.	PROBABLE TEXT OF THE LXX.
14 When thou art come unto the land which the Lord thy God giveth thee and shalt possess it, and shalt dwell therein; and shalt say, I will set *a king* over me, like as all the nations that are round about me;	14 When thou art come unto the land which the Lord thy God giveth thee and shalt possess it, and shalt dwell therein; and shalt say, I will set *a ruler* [variant *rulers*] over me, like as all the nations that are round about me,
15 thou shalt in any wise set *him king* over thee, whom the Lord thy God shall choose: *one* from among thy brethren *shalt thou set king over thee:* thou mayest not put a foreigner over thee, which is not thy brother.	15 thou shalt in any wise set over thee a *ruler* whom the Lord thy God shall choose from among thy brethren; thou mayest not put a foreigner over thee which is not thy brother.
16 Only he shall not multiply horses to himself, nor cause the people to return to Egypt, *to the end that he should multiply horses:* forasmuch as the Lord hath said *unto you,* Ye shall henceforth return no more that way.	16 Only he shall not multiply horses to himself, nor cause the people to return to Egypt: forasmuch as the Lord hath said, Ye shall henceforth return no more that way.
17 Neither shall he multiply wives to himself, that his heart turn not away: neither shall he greatly multiply to himself silver and gold:	17 [Identical with the Hebrew.]
18 And *it shall be,* when he sitteth upon *the throne of* his *kingdom,* that he shall write him a copy of this law in a book, out of that which is before the priests the Levites:	18 And when he sitteth upon his *rule* [?], that he shall write him a copy of this law in a book out of that which is before the priests the Levites:

19 And it shall be with him, *and he shall read therein all* the days of his life: that he may learn to fear the Lord *his* God, to keep all *the words of this law* and these statutes, to do *them*,

20 that his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left: to the end that he may prolong his days *in his kingdom*, he and *his children in the midst of* Israel.

19 And it shall be with him the days of his life: that he may learn to fear the Lord *thy* God, to keep all *these commands* and these statutes to do,

20 that his heart be not lifted up above his brethren, and that he turn not aside from the commandments to the right hand, or to the left: to the end that he may prolong his days *on his land*, he and *the children of* Israel.

Before plunging into the technical details, certain general observations fall to be made. There are minor differences in verses 15 and 16 where the Septuagintal text is obviously superior to the Massoretic, giving the meaning in clearer phraseology. There are also some insignificant divergences in verse 19 which do not change the meaning. But the outstanding difference between the two texts is a difference of institutions contemplated. The identity in all other matters shows that we are not dealing with mere scribal errors. (In verse 18 it is possible that in the LXX the word "rule" has replaced an original "land," for such a change is attested in verse 20 by all the Septuagintal MSS., with two exceptions, which enable us to get back to the earlier text.) On the whole there can be no doubt that we have to consider divergences in the MS. tradition as distinguished from mere chance errors of Greek scribes. The latter would not lead to the numerous differences now in one touch and now in another, making jointly an entirely different institution from that known to the Massoretic text. The fact that all these little pieces dove-tail into a single pattern proves that that pattern was original and not due to chance.

I turn to the details.

In treating of *archōn* and its cognates as renderings for *melek* and its cognates we may begin with the extra-Pentateuchal cases. The first of these is Isaiah viii. 21. The Massoretic text has rightly וקלל במלכו ובאלהיו. This was rendered by Aquila and Theodotion *καὶ καταρὰ ἔσται ἐν τῷ βασιλεῖ αὐτοῦ καὶ ἐν τοῖς θεοῖς αὐτοῦ.*[1] The LXX, however, has *κακῶς ἐρεῖτε τὸν ἄρχοντα καὶ τὰ πάτρια.* The reason is not far to seek. Either the translators or their Hebrew original deemed the true text too improper for reproduction and paraphrased it, just as in the present text of 1 Kings xxi. 10, 13, Naboth is accused of *blessing* God and the king, and in 1 Samuel iii. 13 the scribes made Eli's sons curse themselves instead of God.[2]

The next instance is Isaiah x. 8. For the Massoretic כי יאמר הלא שרי יחדו מלכים, "For he saith, are not my princes all of them kings," the LXX presents us with the wholly different *καὶ ἐὰν εἴπωσιν αὐτῷ Σὺ μόνος εἶ ἄρχων,* "And if they say to him, Thou alone art ruler." Whatever may be thought of this, it is quite clear that *archōn,* "ruler," does not stand for "kings."

In verse 10 of the same chapter we have באשר מצאה ידי לממלכת האליל, "As my hand hath found the kingdoms of the idols," exactly rendered by Theodotion, *καθάπερ εὗρεν ἡ χείρ μου εἰς βασιλείας τοῦ εἰδώλου.* There are here two readings — *ὃν τρόπον ταύτας ἔλαβον καὶ πάσας τὰς ἀρχὰς* [so B. *χώρας*, א, A, and the original text of Q: and this is recognized as the reading of *alia exemplaria* in Field] *λήμψομαι*, "As I took

[1] Symmachus renders *καὶ καταράσεται βασιλέα ἑαυτοῦ καὶ πάτραρχα εἴδωλα.*

[2] Some suppose that the LXX originally read *παταχρη* or *παταχρα*, which is thought to be a transliteration of a Syriac word meaning "idols." This may be so, but does not affect the question of the king.

these, I will take also all the dominions [variant, "countries"]." Here again it is clear that the LXX had a reading which, even if *archas* is correct, deviated widely from our present Hebrew; and it cannot fairly be claimed that it read למכלכת.

The last passage in Isaiah is x. 12. The Hebrew has אפקד על פרי גדל לבב מלך אשור, "I will punish the fruit of the greatness of the heart of the king of Assyria." On this, Duhm *ad loc.* writes the following: "Das Ungethüm: die Frucht der Grösse des Herzens des Königs Assyriens, passt trefflich in die Grammatiken als Beispiel davon was alles möglich ist, aber nicht in eine beschwingte Prophetenrede."

This is as unanswerable as it is vigorous. Such a collection of genitives is impossible for the prophet, and is indeed a monstrosity. But B reads, *ἐπάξει ἐπὶ τὸν νοῦν τὸν μέγαν ἐπὶ* (this is omitted by א, A, Q, Γ)*τὸν ἄρχοντα τῶν Ἀσσυρίων*, "He will visit the greatness of heart, the ruler of the Assyrians."

It will be noticed that פרי, "fruit," is missing here, while *ton archonta* occupies the place of the Hebrew *melek*. It is submitted that the LXX is here translating על פרע אשור (compare its rendering of Deut. xxxii. 42). פרע, a rare poetical word of uncertain meaning, was glossed, and ultimately relegated to the margin by מלך, and then taken into the text in the corrupt form פרי. The existence of this word פרע, meaning "ruler" or "noble," is guaranteed by the identical Arabic root as well as by the Septuagintal rendering of Deuteronomy xxxii. 42 and one of the Septuagintal renderings of Judges v. 2.

There remain only some passages in Ezekiel. In xxviii. 12, the Massoretic מלך צור, "king of Tyre," has *τὸν ἄρχοντα* **Τύρου** as its equivalent. In view of verse 2, where לנגיד צ׳ is rendered

by *τῷ ἄρχοντι* T., it seems probable that the LXX found נגיד in this passage also. It is interesting to note that Field has the entry *οἱ Γ. ἐπὶ τὸν βασιλέα* ("The three [i.e. Aquila, Symmachus, Theodotion] the king"). They, at any rate, did not regard *archōn* as a possible rendering of *melek*.

In xxxvii. 22, M. T. read ומלך אחד יהיה לכלם למלך, "And one king shall be to them all for a king." The LXX has *καὶ ἄρχων εἷς ἔσται αὐτῶν* [*alia exempl.* add *πάντων* Field] —*εἰς βασιλέα*, "for a king," being added under an asterisk— "and there shall be one ruler of them."

In verse 24, M. T., ועבדי דוד מלך עליהם, "and my servant David shall be king over them," is represented by *καὶ ὁ δοῦλός μου Δαυειδ ἄρχων ἐν μέσῳ αὐτῶν*, i.e. "ruler in their midst." On the former verse, Kraetzschmar notes that only in these passages is the future ruler designated "king" by Ezekiel. It will be remarked that, apart from the rendering of the word *melek*, and the exception to Ezekiel's invariable usage furnished by the Massoretic text, there are other *indicia* of corruption. In verse 24, *ἐν μέσῳ αὐτῶν* must represent not עליהם, "over them," but בתוכם, "in their midst," and the phrase is obviously נשיא בתוכם, as in xii. 12. Then too the addition למלך in the earlier verse is clearly a gloss on a text which had some other expression for ומלך in the earlier phrase. For these reasons it is submitted that the LXX found נשיא, "prince" (frequently rendered by *archōn*), and not *melek* in these passages.

It remains only to consider Ezekiel xxix. 14 f., והיו שם 14 שפלה מן הממלכות מכולכה 15, "and they shall be there a kingdom base beyond the kingdoms." The LXX has 14 *καὶ ἔσται ἀρχὴ* 15 *ταπεινὴ παρὰ πάσας τὰς ἀρχάς*, "and it shall be a dominion base beyond all dominions."

Field's Hexapla notes on verse 14 that the LXX had *καὶ*

ἔσται ἐκεῖ ἀρχή, of which ἐκεῖ had been added by Origen under an asterisk, while the three other Greek translators had (καὶ ἔσται) ἐκεῖ βασιλεία again with ἐκεῖ under an asterisk. On verse 15 he has LXX παρὰ πάσας τὰς ἀρχάς Theodotion παρὰ τὰς βασιλείας. Here again it would seem that Ezekiel had a text giving Egypt a lower rank than that of kingdom, and that a gloss made in the interests of historical explanation has supplanted the original.

These are all the extra-Pentateuchal passages that can be adduced to prove that מלך and its cognates could ever have been rendered by *archōn* and its cognates. It is submitted that in every case the LXX had a different text,— generally better, but sometimes worse,— and that many of the changes in the text have brought prophetic utterances into more prosaically phrased accord with the actual course of history.

Turning to the Pentateuch we find that in four passages outside the law under consideration the equivalent of מלך in the Greek text is *archōn,* but in three of these the *plural* is used, while in the fourth A, supported by as many as four cursives, omits the word altogether. The passages are Genesis xlix. 20; Numbers xxiii. 21; Deuteronomy xxviii. 36; xxxiii. 5. In Genesis xlix. 20, מעדני מלך, "luxuries of a king," is represented by τρυφὴν ἄρχουσιν, "luxury for rulers." Clearly the Septuagintal text was different and knew nothing of *melek.* Owing to the number of different words that can be rendered by *archōn,* no certain inference is possible as to its original. In Numbers xxiii. 21 we find τὰ ἔνδοξα ἀρχόντων ἐν αὐτῷ. Again the underlying text is difficult to divine, but again it is obvious that we have something quite different from the Massoretic ותרועת מלך בו. Field records the fact that Aquila, Symmachus, and Theodotion all had other renderings which corresponded to our present Hebrew. In Deu-

teronomy xxviii. 36, the LXX has *καὶ τοὺς ἄρχοντάς σου οὓς ἐὰν* (so B and other authorities, *ἂν* A, F, and other authorities) *καταστήσῃς*, "and thy *rulers* whom thou shalt set," which certainly cannot be the equivalent of יאת מלכך אשר וגו׳, "thy king whom," etc. Once more, the other three translators render *καὶ τὸν βασιλέα σου*, "and thy king." The suggestion lies near at hand that some plural word has undergone corruption (as in some of the other cases we have noticed) in the interests of historical accuracy. It is not credible that any Jewish scribe finding מלכך should have glossed it by the Septuagintal text: but the converse hypothesis is intrinsically probable, and is supported by what we have seen in other cases. It is important to note that in all the Pentateuchal instances we have examined, the "king" of the Hebrew text appears to have been an alternative to *plural* words. The remaining case need not keep us long, for it is full of difficulty. In xxxiii. 5, for ויהי בישרון מלך, "and he was in Jeshurun king," the ordinary Septuagintal text is *καὶ ἔσται* (which does not render ויהי) *ἐν τῷ ἠγαπημένῳ ἄρχων*, "and he shall be ruler in the loved." This is supported by the entry in Field, but A, k, o, r, and y omit *archōn*, "ruler." Another MS. (b) has in the margin *ἐν τῷ εὐθεῖ βασιλεύς*, supplying the usual protest against the possibility of treating *archōn* as a rendering of *melek*. What may be at the bottom of A's divergence is not clear. There are other variants recorded in Holmes, but unfortunately the larger Cambridge Septuagint has been unable to throw light on the passage. In any case it is submitted that as ראשי, two words later, is rendered by *archontōn*, it is inconceivable that *archōn* (if it be really the original text of the LXX) can here represent a Hebrew *melek*.

That exhausts the passages outside our own where a Massoretic *melek* is represented by a Septuagintal *archōn*. It is submitted that in no single instance did the LXX have the same reading, and that the Hexaplar variants all tend to prove that nobody ever believed that *melek* could be translated by *archōn*.

It should, however, be mentioned that there is one argument which could possibly be pressed into service in support of the theory that *archōn*="king." It is used for the Hebrew Moloch in Leviticus xviii. 21 — where the three other translators substitute Moloch — and xx. 1–5. Yet here again the LXX uses the plural in the last-mentioned verse, which makes the rendering very doubtful; and, moreover, the Greek representation of the name of a heathen god would be influenced by theological considerations, as indeed is the pointing of the Hebrew text (giving *Moloch* for *Melech*). Just as we saw reason to suppose that in Isaiah the translators shirked speaking of cursing in connection with the words "god and the king," so they may probably have avoided calling a heathen deity by a Divine title — if indeed the use of the plural does not point to a different Hebrew word altogether. For this reason it does not appear to me that the fact should affect our view of the Deuteronomic text. That cannot have been influenced by such a notion, and moreover the other variants in the passage point in the same direction. That exhausts the other passages we have to consider. Elsewhere "king," alike in the Pentateuch and the other parts of the Bible, is rendered by the natural *basileus*.

The details as to Deuteronomy xvii. itself are as follows:—

Ver. 14: "I will set over me a ruler [A, N, and y, "rulers"] for "I will set over me a king."

Ver. 15: תשים עליך מלך, "thou shalt set over thee a king," in its second occurrence is omitted by d, m, the Ethiopic, and the Old Latin. Examination of the text shows that it is due to dittography, and is not original.

Ver. 16: b, d, m, n, and w, the Armenian, and the Ethiopic rightly omit למען הרבות סוס, "to the end that he should multiply horses."

Ver. 18: "The throne" is not an original part of the Septuagintal text.[1]

Ver. 19: e and j omit "and read in it all." These words merely explain the context, and it is therefore immaterial whether they are retained or not. They are probably not original.

Ver. 20: For "on his kingdom" there are three variants. The ordinary reading is, ἐπὶ τῆς ἀρχῆς, "on his rule." Aquila is recorded to have read "kingdom" with our present Hebrew. But q reads ἐπὶ τῆς γῆς, "on the [his] land," and 18 of Holmes has the obviously conflate ἐπὶ ἀρχῆς τῆς γῆς, "on the rule of the land."

For "his children in the midst of Israel" one Septuagintal MS. (16) reads "the children of Israel." This is supported by other variants, the ordinary reading being "he and his children in the midst of the children of Israel." That is obviously conflate, resulting from the combination of the present Hebrew with the text of 16. There is, however, another reading. Some MSS. have "he and his children the children of Israel." This is clearly an intermediate text, pointing back to the reading of 16 as the original.

The resulting text has already been given above. It remains to review the historical considerations.

[1] It is interesting to note that in verse 20 the Samaritan inserts "throne of" before "kingdom," showing how easily such a gloss could creep in.

Speaking of the narrative of 1 Samuel vii. 2–17; viii.; x. 17–27a; xii., Dr. Driver writes as follows:—

"This narrative, now, shows no indications of the law of Dt. having been known in *fact*, either to Samuel, or to the people who demanded of him a king: had such been the case, it is incredible either that Samuel should have resisted the application of the people as he is represented as doing, or — if *per impossibile* he did this — that the people should not have appealed to the law, as a sufficient justification of their request." (Deuteronomy, p. 213.)

In the hands of Dr. Driver this of course becomes an argument for the late dating of Deuteronomy; yet if we look at our law again we shall see that it is fatal to such a theory. Dr. Green's arguments on this point are unanswerable:—

"And how can a code belong to the time of Josiah, which, while it contemplates the possible selection of a king in the future (Deut. xvii 14 ff), nowhere implies an actual regal government . . . . which lays special stress on the requirements that the king must be a native and not a foreigner (xvii 15), when the undisputed line of succession had for ages been fixed in the family of David, and that he must not 'cause the people to return to Egypt' (ver. 16), as they seemed ready to do on every grievance in the days of Moses (Nu. xiv 4), but which no one ever dreamed of doing after they were fairly established in Canaan?" (Moses and the Prophets, pp. 63–64.)

These arguments are really unanswerable.

It is urged that the horses, the wives, the silver and gold, are reminiscences of Solomon; but in truth there is nothing distinctive about such traits. They were obvious dangers such as must have been familiar to Moses from contemporary history. The dangers of a foreigner's rule can also be explained from Egyptian history, which is rich in such episodes, but not from the annals of the Hebrew monarchy. On the other hand, the Septuagintal text enables us, while giving due weight to these considerations, to suppose that the law of a *kingdom* was unknown to Samuel, who would only have

been acquainted with the earlier text referring to a non-hereditary ruler such as he himself was. It must be remembered that (apart from the appointment of Joshua and this law) the Pentateuch makes no provision at all for a permanent central executive. Nevertheless the subject must have been present to the lawgiver's mind, though tribal jealousies and other reasons may have made it impracticable to take any definite step towards erecting such an authority. For the conquest it was clearly necessary to vest supreme executive power in the best general.

It remains to notice that Ezekiel in his picture of the future uniformly avoids the term "king." May we not suppose the reason to have been that he, too, knew a text of Deuteronomy in which, as in the LXX, the law did not employ this term?

XV

DEUTERONOMY XXXIII. 4—"MOSES COMMANDED US A LAW"

[From the *Bibliotheca Sacra*, April, 1910.]

This passage has been used as an argument against the Mosaic authorship of Deuteronomy. How could Moses have spoken of "*us*" if he had written it [see, for example, E. König, Einleitung in das Alte Testament, p. 172]? The answer is, that the Vatican MS. (B), and also b, w, d, e, f, i, l, p, q, the Sahidic, and the Ethiopic, read "you," not "us." The corruption would be a very easy one, and the phrase "Moses commanded us a law" would readily commend itself to later scribes. It is to be noticed that there are innumerable other instances of differences between the LXX and the Massoretic text as to the pronominal terminations, and these seem likely to wreck many modern theories.

XVI

THE LAWS OF DEUTERONOMY AND THE ARGUMENTS FROM SILENCE

[From the *Princeton Theological Review*, April, 1907.]

A CONSIDERABLE portion of the case made by the higher critics against the authenticity of the laws of Deuteronomy rests on arguments from silence. It is the object of the present article to refute these; but, in order to do so quite fairly, it will be well to state them first in the words of some representative critical writer. To this end, two passages of Dr. Driver's argument in his edition of Deuteronomy are subjoined:—

"The 'Tent of Meeting,' with its appurtenances, which figures so largely in P (Ex. xxv–xxxi, xxxv–xl, — together with many allusions elsewhere); the distinction between the priests, the sons of Aaron, and the common 'Levites,' so often and emphatically insisted on in the same source; the Levitical cities, and the year of Jubile; the elaborately developed sacrificial *system* of P; the meal-offering (מנחה), the guilt-offering (אשם), and especially the sin-offering (חטאת) — all these are never mentioned in Dt.: the atoning efficacy of sacrifice, on which such stress is laid in the sacrificial laws of P, is alluded to *once* in Dt. (xxi 8b), and that in a law for which there is in P no parallel; the great Day of Atonement (Lev. xvi), in which the Levitical system of sacrifice and purification (Lev. i–xv) culminates, is in Dt. passed by in silence."[1]

In a footnote on the above passage, Dr. Driver adds the following remarks:—

[1] Driver, Deuteronomy, p. xiii.

"The Tent of Meeting is mentioned in Dt. xxxi 14 f., but in a passage belonging not to D, but to JE. Nor, even there, does it appear as the centre of a great sacrificial organization. The non-mention of the sin-offering beside the burnt- and peace-offering in xii 6, 11 is very remarkable. . . . It is also singular that *korbān*, P's very common, and most general term for *offering* (including sacrifices), never occurs in Dt."

The second passage runs as follows:—

"It is also undoubtedly true that the aim of Dt. is very different from that of P: the one is intended (chiefly) for the guidance of the priests, the other is addressed to the people; the one represents the priestly point of view, the other that of the prophets; the one lays down a complete code of ritual observances, which certainly does not fall within the scope of the other. Still, if P were written by Moses, — or even compiled by another hand under his direction, — it is inconceivable that in recapitulating at the close of his life the laws which he desired the Israelites to observe, he should have thus held himself aloof from a body of law, in the compilation of which he had (*ex hyp.*) been so intimately concerned, ignoring institutions which he had represented as of central significance in his system, and contradicting regulations which he had declared to be invested with the highest sanctions. Not only does Dt. not contain (in any sense of the word) a *résumé* or 'recapitulation' of the laws of P, but the author does not even do what, supposing him to have been interested in a great ceremonial system, would have been consonant with the general plan of his work, and at the same time of the utmost value to future generations of Israelites: he does not, even in general terms, refer to the system which (*ex hyp.*) he had prescribed, for the purpose of summarizing its leading principles, or of defining the place which cere-

monial institutions should hold in a spiritual religion. On the contrary, his attitude towards it shows that its most characteristic ideas are alien to his mind, and have no place in his scheme of religion." [1]

It is only fair to remember that these passages were written at a time when Dr. Driver believed that contradictions could be established between the laws of Deuteronomy and other portions of the Pentateuch.[2] Not unnaturally, therefore, they are colored by this belief. Moreover, in estimating them, we must also consider that Dr. Driver's mind was influenced by the old (and in my view quite untenable) idea that if Deuteronomy be genuine it is a recapitulation of the Law. But, even so, we must say that, in view of other passages in his book (pp. xxvi, xxvii, xxx), Dr. Driver is not altogether self-consistent. Why complain, for instance, that "a manual addressed to the people and intended for popular use" which "does not embrace a complete *corpus* of either the civil or ceremonial statutes that were in force when it was written" (p. xxvi) makes no mention of the land laws,[3] or of such technical details as the meal-offering, the guilt-offering, the sin-offering, and the theory of sacrifice?

As, however, Dr. Driver's arguments rest on fundamental misconceptions of the character and objects of the Mosaic legislation, the best answer is to deal with the larger aspects of the question, explaining incidentally the particular points that give trouble. The issues between us are far wider than any question of the mention or non-mention of a particular

[1] Driver, *op. cit.*, pp. xl–xli.

[2] See, as to this, Studies in Biblical Law, *passim;* Essays in Pentateuchal Criticism, *passim;* and the Churchman (London), July, 1906, pp. 422–430, and September, 1906, pp. 548–555.

[3] There must have been *some* land laws in existence when the book was written, on any hypothesis of its origin.

law or sacrifice. In the view of the whole critical school, the Pentateuch is at best an ordinary book, at worst a field for practising their quaint arithmetical exercises. In my view, it is not primarily a piece of literature at all; it is a piece of statesmanship, and must be judged as such.[1] While, therefore, I recognize that it is impossible for anybody now to dive into the mind of Moses so far as to be able to assign precise reasons for the position of each individual command in the whole complex body of legislation, I believe that attention to the considerations that must have been present to the lawgiver's mind, aided by a careful study of many points that have hitherto escaped notice, will enable us not merely to answer Dr. Driver's arguments, but also to throw new light on problems that have hitherto remained unsolved.

If we would understand the Pentateuch as a piece of statesmanship, we must first consider what object Moses had in view, and what were the circumstances that conditioned his work. About his ideal there can be no doubt. It was to make the children of Israel a nation holy to the Lord, their God. This was really a twofold task. He had to make the Hebrew tribes a nation. He had also to make them a holy nation. The first part of that ideal and the means he took to accomplish it, I do not propose to develop here. It has not sufficient bearing on the subject of this paper; and its proper consideration would involve tracing the forces that had been at work for centuries to make the Israelites of the Mosaic age. But the latter part — the making of a holy nation — is the

[1] It will be understood that, in saying this, I do not touch any question of inspiration. The Pentateuch being intended to influence the conduct of human beings, we are entitled to examine the means adopted to secure this end, and in doing so we are in no wise encroaching on the domain of theology. Moreover, when I speak of Moses as giving laws, I must not be taken as intending to express any doubt as to the inspiration he enjoyed.

key of all the institutions that puzzle the critics. It meant not merely that the Israelites must be taught to worship the Lord as their God, and the One and Only God, but that rules must be laid down to make them "clean" and "holy" in accordance with the notions of that age.[1] Moreover, it was necessary to stamp the impress of the peculiar relationship between God and Israel on every portion of the legislation.

Turning next to the surrounding circumstances, various limitations at once become noticeable. Nobody would expect to find in the Pentateuch rules that were utterly unsuited to the social and economic state of Israel in the days of Moses. That, then, is one limitation; there are others not less important. It is one thing to lay down laws, another to procure obedience to them. A lawgiver who enacts rules that run counter to the thoughts and wishes of his subjects only makes it certain that his work will become a dead letter. "John Marshall has delivered his judgment; let him now enforce it, if he can." So spoke President Jackson, of the United States, of a decision of the Supreme Court; and less exalted individuals than heads of states have often reduced laws to impotence. A case in point may be quoted from the legislation of the Pentateuch. We know from Jeremiah, that, though the law commanding the manumission of Hebrew slaves six years after their purchase was observed for a short time after the rediscovery of the book of the Law, it was speedily broken again. A third limitation is to be found in the habits and ideas of the age. There is progress in legal ideas and devices, as in other human thoughts and inventions. Thus a system of procedure that depends largely on writing will be unknown

[1] It was, of course, also necessary to provide a number of rules to deal with matters that arise in every society, such as theft; but, as no question arises on these, they may for our present purpose be left out of consideration.

or impracticable in an age when writing is not in common use.[1] In such an age, too, there can have been no such thing as a law of forgery. But there are two points to which particular attention must be drawn, because a grasp of them is important to the proper appreciation of the Mosaic legislation. The first is that ancient law knows nothing of any remedy for apprehended wrong. If I have good ground for believing that my neighbor is about to trespass on my land, a mature system of law may in certain circumstances allow me to obtain — not merely damages for the injury his past trespasses may have caused, but also — an injunction, i.e. an order to prevent his doing so. If he disobeys that, he will be sent to prison.[2] The injunction is unknown to early law, and is alien to its ideas. The want of such a remedy is very obvious in the Mosaic legislation. A man ill-treats his servant or slave. If the injury is very bad, a remedy is given. The slave is to go free. But in other less severe cases what is to be done? For lack of adequate machinery, the courts can do nothing; and so we find merely appeals to the individual's religion, or conscience, or to public opinion. Thus, in the case of insolvent

[1] It is abundantly clear that writing was widely diffused in the Mosaic age, but it is not less clear that it was not in extensive use among the Israelites. In this respect their position in Egypt may not inappropriately be likened to that of the barbarian invaders of the Roman Empire in the midst of the Romanized natives of the various provinces. See Studies in Biblical Law, pp. 66–67.

[2] In criminal law there is machinery for preventing breaches of the peace, but it is sufficient for our present purpose merely to notice the more perfect civil remedy of the injunction, which is applicable in the case of certain civil wrongs. It will be understood that in my remarks the injunction must be taken as simply a type of possible machinery for preventing apprehended wrong irrespectively of whether that wrong would now be regarded as civil or criminal or both in any given modern community.

debtors, who were *de facto* though not *de jure* slaves,[1] we read: "Thou shalt not rule over him with rigor, but shalt fear thy God" (Lev. xxv. 43). "He shall not rule with rigor over him in thy sight" (Lev. xxv. 53). This example also illustrates my second point, which is even more important. It is not only impossible adequately to safeguard for the future the slave who has been somewhat maltreated by his master; no satisfactory punishment is provided for the offense already committed. Why? Because there was no strong central government, no police, little or nothing of what we mean by the "state." Before Moses there had been no central government at all. After him the central government was either weak or in abeyance till the foundation of the kingdom. "In those days there was no king in Israel, every man did that which was right in his own eyes." Many consequences flowed from this. In ancient Israel, as in all early societies, criminal law was the business of the private individual, not of the state. Theft was punished by such reparation in property as would overcome the feeling of vengeance which would otherwise have led to bloodshed. The punishment of a murderer was primarily the business of the avenger of blood, and the most that law could hope to do was to step in and regulate the feud.[2] In other spheres, too, we see the absence of the central power. An excellent example is afforded by the sabbath year. The twenty-fifth chapter of Leviticus gives us the land laws and also the rules relating to the sabbath year. A modern legislature would have no difficulty about such an enactment. Punishments would be provided for all persons who should cultivate their land in the seventh year; an army of officials would watch over the execution of the law;

[1] See Studies in Biblical Law, pp. 5–11.
[2] Studies in Biblical Law, chap. iv.

and the man who dared break it would have to reckon with the courts. But in the Mosaic age the necessary machinery was not merely non-existent; it was impossible, — though, for people who had seen the Egyptian system of administration, it was perhaps not quite inconceivable. The only substitute available was an appeal to religion; and, accordingly, the discourse in the next chapter contains threats of exemplary punishment by God in the event of non-observance of the law. The case is the more interesting because the discourse is silent about the jubilee laws, which are also to be found in the preceding chapter. They — in contrast to the laws of the sabbath year — were jural laws, that is, laws which the courts were intended to enforce: and there would be powerful human motives and influences at work to secure their observance. Hence an appeal to religion was not so necessary.

A fourth limitation of a lawgiver's power — the last I propose to notice — is to be found in the nature of the difficulties which may be experienced in procuring sufficient proof of an offense. Moses was desirous of preventing abuses of the incapacity of a blind man; but, from the nature of the case, there would be a difficulty about evidence. The blind man could not identify the offender. Hence here, too, we find appeals to religion: "Thou shalt not put a stumbling-block before the blind; but thou shalt fear thy God" (Lev. xix. 14).[1] "Cursed be he that maketh the blind to wander out of the way" (Deut. xxvii. 18).[2]

[1] The first part of this verse, "Thou shalt not curse the deaf," also illustrates the remarks in the text.

[2] Perhaps this principle is seen even more clearly in the first of the twelve curses, "Cursed be the man that maketh a graven or molten image . . . and setteth it up *in secret*." It could not be contended that the lawgiver limited the curse to secret idols, because he had no objection to public images, but the latter could be dealt with under the ordinary law, while in the former the

On the other hand, while the task of the legislator was rendered more difficult by all the limitations we have just considered, it was partly aided by a method that, so far as I know, is unique. Many peoples have had laws that they have attributed to some deity, but I am acquainted with no other instance in which laws are presented in the form of a sworn agreement of a peculiar type — called by the Hebrews a "covenant" — between the nation and a god. Now there are obvious differences between sworn agreements made with God and similar agreements made by men. Either of two men may break his oath; but, in the covenants with God, only the people could prove false to their word. Again, if two men enter into an agreement, they may call on One who is outside the agreement to enforce its observance by punishing whichever of the two may break his covenant; but, in a covenant with God, the only question of that nature that could arise would be, How will He reward obedience or punish its opposite? Hence, in each of the great covenants with God, we find, after the terms of the agreement, a discourse intended to procure obedience setting forth the results of observance of the covenant and of the reverse. As this takes the place of a jurat in an ordinary oath, I have ventured to term it a quasi-jurat. An excellent instance of it may be found in the discourse of Leviticus xxvi., to which reference has already been made. As an aid to the task of Moses to

question of evidence made this difficult or impossible. In all the twelve curses there is some practical difficulty in the way of action by the courts. The difficulty of proof in the case of some of the offenses is a commonplace with lawyers even at the present day. The repeated commands not to wrong strangers, widows, and orphans are due to a similar cause. It is evident that all three classes would experience difficulties in obtaining justice.

secure obedience, we may suppose its effect to have been considerable.[1]

We may now proceed to apply these preliminary observations to the legislation of the Pentateuch. It will be easiest at once to dismiss from consideration those decided cases in which some difficulty arose and was solved; as, for instance, the question what was to be done where men were disqualified by ceremonial impurity from celebrating the Passover at the proper time. Such cases are sufficiently explained by their historical setting; and Englishmen and Americans are too familiar with the operation of a system under which law is made by the courts as cases arise for decision to require any lengthy discussion of this feature. The curses, too, have already been noticed. But with regard to the rest of the rules the position was more difficult. They were not all equally likely to find ready obedience. Some were, from this point of view, practically indifferent, if I may so express myself — that is, the people would obey, and the courts could easily enforce, any rule that was reasonably adapted to the requirements of the age.[2] For instance, the land laws, the

[1] See, as to the covenants, Studies in Biblical Law, chap. ii. I cannot refrain from noticing one of the other very characteristic instruments of persuasion employed by Moses — the appeal to history. It is used with great oratorical effect in its subtlest form in such a passage as Deut. xiii. 6: "And that prophet . . . shall be put to death: because he hath spoken rebellion against the LORD your God, which brought you out of the land of Egypt, and redeemed thee out of the house of bondage." Surely everybody must appreciate the appeal to the gratitude and the historic pride of the people — and of every individual member of that people — involved in these words, and their consequent power to dispose men to watch over the enforcement of the Law.

[2] Every law is occasionally broken: but there is a difference easily apprehended between a law which becomes a dead letter, and another law, which, though habitually observed, is occasionally

law of succession, and most of the "dooms" contained in Exodus xxi. ff. would not be likely to meet with opposition. In many cases it is important to have some uniform rule, and the exact nature of the rule is less important. But in other instances Moses had to reckon with more or less potent human feelings which would be ranged against him. Thus the mitigation of the blood-feud by the institution of cities of refuge would be likely to run counter to a strong desire either for vengeance or for compensation: and the rule that a Hebrew slave was to be manumitted after six years' service is in violent opposition to one of the most abiding sentiments of human nature — the desire for gain. These considerations necessarily dominated the form of the legislation, which we may (with the exceptions already noted) arrange for convenience in four groups. These four groups consist of:—

1. The terms of the covenant at Sinai contained in Exodus xix.–xxiii., together with Exodus xxxiv. 10–26 (in which it was renewed after the episode of the golden calf), and Numbers xxxv. 9–34 (containing the law of cities of refuge as foreshadowed in Ex. xxi. 13).

2. Leviticus xxv.–xxvi. (containing what may fairly be called the land covenant).

3. The covenant of Deuteronomy.

4. The rest of the legislation.

First, as to the second group. It would seem that, the land having been promised to Abraham in a covenant, the laws specifically relating to the land necessarily became terms of that covenant. Accordingly, Leviticus xxv. and xxvi.

broken. Thus in this country the bulk of the inhabitants observe the law which forbids the unjustifiable taking of human life; but there are some murderers, and of these only a portion are successfully brought to justice.

contain agricultural regulations, the law of land tenure (including the tenure in Levitical and other cities), closely related laws for the relief of distressed peasants, and rules designed for making the land a fitting abode for God's Sanctuary.[1] The arrangement and connection of thought are here obvious.

The other two covenants are equally easy to understand. The contents of Exodus xxi. ff. appear to be designed primarily for judges and heads of families to commit to memory. It is broadly true that these chapters contain the private law — including, as above explained, the criminal law —enacted in the Mosaic age, and, in addition, certain brief religious and other rules that it behooved every head of a family to know by heart. The style is extraordinarily terse — as in other ancient codes that were committed to memory — and well suited for the purpose suggested. Deuteronomy, on the other hand, was intended for public reading to the people. It, too, was written in a style that was singularly well adapted to its purpose, and therefore very different from that of Exodus xxi. ff., since it is one thing to compose a speech which shall impress men's minds and mold their opinions by its argumentative and oratorical power, and quite another to frame legal rules in a form suited for memorizing.

From this, the following generalization may be made. Taking the great body of jural law — i.e. laws for the courts

[1] When this is grasped, Dr. Driver's point as to the non-mention of the jubilee and Levitical cities falls to the ground. Indeed, as the sabbath year is not mentioned in Deuteronomy, while it occurs in Exodus and Leviticus, we should on critical principles be justified in arguing that Deuteronomy must be earlier than JE, and that it was not till after Deuteronomy that the sabbath year was introduced by literary forgers. A place for everything and everything in its place is a maxim by which no critic has ever dreamt of testing the Mosaic legislation.

as contrasted with moral precepts, sacrificial rules, etc. — and including the outlying provinces of jurisprudence, such as constitutional law, laws of war, administrative law — we find land laws in the land covenant, private law in Exodus, public law, and those rules of private law which depended for their validity on the force of public opinion or were designed to mold that opinion in Deuteronomy.[1] To this generalization, there are — subject, of course, to what has been said about the decided cases — only two classes of exceptions. The first consists of repetitions or apparent repetitions; the second of a very few rules of jural law, which are found in Leviticus and Numbers. On examination, the apparent repetitions turn out to be due very largely to the anticipated difficulty of securing obedience to rules that were opposed to strong human feelings.[2] The other class of exceptions is trifling in bulk, and consists of Numbers xxx. and a few verses in Leviticus xviii.–xx. Without wishing to push our generalization too far, we may go some way towards understanding these instances, even on the materials we have. Numbers xxx. lays down the law relating to oaths and vows — methods of entering into business and other engagements that were more important in early societies than at the present day — and is significantly addressed to the "heads of the tribes of the children of Israel." We do not know enough of the constitution of the courts in early Israel to be certain what this meant. But the rules laid down in this chapter are

[1] This motive is very strikingly illustrated by such a passage as Deut. xxi. 18–21 (law of rebellious sons), where the thought of the influence of the proceedings on public opinion is actually expressed, "and all Israel shall hear, and fear"; and also by the phrase "thus shalt thou put the evil from the midst of thee." In the latter, moreover, we see the idea of the unity of the people well brought out. See, further, Studies in Biblical Law, chap. v.

[2] *Op. cit.*, pp. 107–109.

far more detailed than most of the jural laws, and this, combined with the heading, suggests that the whole subject was outside the competence of the ordinary courts; or, at any rate, that the rules it contained were intended primarily for a more limited audience than that to which Exodus xxi. ff. was addressed. The passages in Leviticus will be considered later.

The remaining contents of Exodus xxi. ff. may be classified roughly under three heads — as dealing with either sacred seasons, or sacrifice, or moral and religious duties. In every one of these cases it is true that we have a sort of *précis* (fitted for oral transmission) of the principal matters that every head of a household should know; but it is also true that every sort of detail is, so far as possible, omitted.[1] Everything that was too bulky — as, for example, the list of forbidden animals — was dealt with in one or more of three ways. Either it was relegated to Deuteronomy,[2] or it was included in what may fairly be called the priestly section of the Pentateuch, or finally it was placed in a chapter that appears to have been intended for public use — Leviticus xix. It should be noticed that this chapter is specifically addressed to "all the congregation of the children of Israel" (cf. Ex.

[1] It is almost universally recognized now that Ex. xx. 24–26 deals with lay sacrifice, and hence it appears most appropriately in its present position. Deuteronomy xvi. 21–22 deals with the same subject, and it is impossible to say with any certainty why it should not have been put in Exodus. It would be easy to hazard a conjecture, but, as already explained, it would not be possible to account exactly for the position of every individual precept; and unsupported conjectures on small points of detail would only have the effect of obscuring the broad outstanding principles that are obviously true.

[2] Here we may conveniently notice that Deuteronomy contains many commands concerning relatively small details, e.g. xxii. 5–12.

xii. 3), and that in form it largely recalls the characteristics of poetry.

We do not know enough of the customs and ways of the Mosaic age to deal with these divisions of the subject with as much certainty and detail as with the jural laws. Thus, in Deuteronomy, we find the rule: "Thou shalt not sacrifice unto the LORD thy God an ox, or a sheep, wherein is a blemish, any evil-favoredness" (xvii. 1). We can see that it is thoroughly in accordance with what we know of the nature of Deuteronomy that a broad, general principle should be enunciated there, leaving the details for the priestly teaching, but it would be pure guesswork to attempt to assign any reason for its presence in Deuteronomy rather than in Exodus. On the other hand, it will be easy, when we have considered the characteristics of the fourth great group of the legislation, to see by an example what means were employed by Moses to put forward the rules relating to particular subjects in the form best suited to secure obedience without laying too great a strain on the memory or capacity of the ordinary Israelite.

In examining the fourth group, we see that here, not less than in the other three cases, certain great principles stand out. First, it is here that we must look for what, in analytical jurisprudence, would be termed occasional (as opposed to general) commands, or commands which are not laws at all. All transitory precepts — commands to do a thing once for all — are naturally omitted from the three covenants. Under this head fall the commands to consecrate a priesthood, to construct the dwelling with its appurtenances, to divide the land. It is clear that nothing would be gained by including such matters in one of the great covenants, while the insertion of what was transitory could only weaken the force and

permanent value of those remarkable collections. But when we subtract the occasional commands, we find that we may conveniently arrange what remains under three heads: (1) regulations internal to the priestly tribe and the sanctuary; (2) sacrificial details, and particularly procedure; (3) matters so technical and complicated that they could not be put before the people without the teaching of some class specially trained for the purpose. These groups overlap. The part to be played by a priest in connection with some sacrifice might be viewed as a matter internal to the priestly tribe, or as a sacrificial detail, or as something too technical to be conveniently embodied in a book that was to be read to all; but that does not make it any the less useful to have some such general principles enunciated.

The first of our three heads causes no difficulty. Such subjects as the internal organization of the priestly tribe, the national sacrifices commanded in Numbers xxviii., xxix., the details of the ritual to be observed by the priests, would not naturally find a position in any collection intended for popular or judicial use.[1] But the second head brings us to a distinction which is quite unknown to biblical criticism — the distinction between substantive law and procedure, which may best be made clear by examples. I have a right to the enjoyment of my property — that is substantive law; but if X interferes with that right, the particular steps I may take to obtain legal redress (as by issuing a writ and going through all the necessary subsequent stages of an action) are procedure. So, too, with sacrifice. The Israelite is to offer the first of the first-ripe fruits of his land at the house of the Lord. That is substantive law. But the details of treatment

[1] This disposes of Dr. Driver's argument from the silence of Deuteronomy as to the distinction between priests and Levites. See, however, *infra*, No. 20.

of the first-ripe fruits when presented are mere procedure Two further points should be noted as being germane to the present discussion. There may often be a great difference between substantive law and procedure from the point of view of securing obedience. Thus, an Israelite might be tempted not to offer a particular offering; but if he decided to make the offering, he would have no motive for departing from the prescribed procedure.[1] Secondly, he would have very little choice in the matter. The priest would be there to see that he did the right thing. It is very striking that, in the sacrificial code contained in Leviticus i.–vii., all the rules about peace-offerings, burnt-offerings, and meal-offerings are concerned with procedure. It is assumed that the offerings will be brought; and we are told what, on this assumption, is to be done with them, — how they are to be sacrificed, what dues must be paid, and so forth. The basis of all these regulations is to be found in the words "when any man of you bringeth near a *corban*[2] [offering regarded from the point of view

[1] We may also take a slightly more complicated example from the jural laws, one which has been the cause of some trouble to the critics. I am to let a purchased Hebrew slave go after six years of service. That is substantive law, and, moreover, law which I may be strongly tempted to evade or resist if opportunity offers, for it involves great loss for me. But assume a different state of affairs. Suppose that I am ready to let my slave go, but that he elects to stay with me forever under the provisions of Ex. xxi. 5, 6. The steps to be taken under that law are mere procedure. Not only could there be no strong motive for attempting to evade its provisions, but there would be a natural desire on my part to have everything in order, so that I could prove my right to the possession of the slave if any question should subsequently be raised. Hence the observance of the substantive law is earnestly enjoined in Deut. xv. 12–18 (especially ver. 18, "It shall not seem hard to thee," etc.), but the details of the procedure are not repeated.

[2] On the meanings of *corban*, which is very inadequately treated in the Hebrew lexicons, see more particularly Murray's Illustrated Bible Dictionary, *s. v.*

of being presented at the religious center] to the LORD" (Lev. i. 2). No information can be gleaned from these chapters as to when any one of the offerings in question was to be brought.[1] In Numbers xv. 3 ff. we are given rules for the offering of meal-offerings and drink-offerings with certain sacrifices. These rules are from one point of view something more than mere procedure; but it is clear that they have the same ancillary and subordinate character, clear, too, that the priest would explain to the sacrificant the necessity of observing them, and, in the last resort, compel obedience by refusing the sacrifice.[2] In point of fact, the evidence of the other books would tend rather to make us believe that meal-offerings were offered long before the date to which the critics assign D.[3] But before I pass from procedure and similar ancillary matters I must make one remark. Lay sacrifice necessarily involved rules for lay procedure, and, accordingly, we find in Exodus and Deuteronomy a few very simple regulations which were obviously intended to govern lay prac-

[1] A solitary exception to the generality of this statement should perhaps be made in view of the cakes and wafers of Lev. vii. 12–14; but these may not have been technically meal-offerings, since they do not go wholly to the priest, like ordinary meal-offerings (Lev. ii. 3).

[2] These considerations dispose of Dr. Driver's points with regard to the silence of Deuteronomy as to the sacrificial system and the meal-offering; also of the non-use of *corban* (a technical word which is applicable to what is specifically brought to the priest, and which would be thoroughly out of place in a popular collection), and of the general silence as to the theory of atonement by sacrifice. It should also be noticed that Deuteronomy is silent as to *bikkurim*, although they were admittedly older than this legislation (Ex. xxiii. 16, 19; xxxiv. 22, 26).

[3] See Amos iv. 5, v. 22. 25; 1 Kings viii. 64; 2 Kings xvi. 13, 15 (in both of which verses the drink-offering also appears, though that is not mentioned in Deuteronomy either); Judges xiii. 19, 23; and cf. preceding footnote as to *bikkurim*.

tice (e.g. Ex. xx. 24–26). I mention this merely to avoid the possibility of being misunderstood.

In striking contrast to the sacrifices of which we have spoken, stand the sin-offering and guilt-offering. The Pentateuch, instead of assuming that they will be brought, lays down the occasions on which they are to be brought (e.g. Lev. iv.). We have here substantive law as well as procedure. This inevitably suggests that these are new sacrifices which were unknown in Israel before the age of Moses. But they are also extremely technical and detailed; and it is probably for that reason that we find them wholly contained in portions of the Law which would reach the people only through the priests. But, be that as it may, Dr. Driver's surprise that they are not mentioned in Deut. xii. is entirely unreasonable. The portion of that chapter to which he refers is devoted not to a catalogue of existing sacrifices,[1] but to a command that certain sacrifices were to be brought to the religious center. In the case of the sin-offering and guilt-offering the command was unnecessary, since they could not, by any possibility, be offered without a priest. An ordinary animal sacrifice could be offered by a layman, — at any rate, in certain cases, — but only a priest could make atonement for sin. The Pentateuch never contemplates any unlawful priesthood, and it never provides any check on the power of the priests, which was consequently abused. Hence — particularly if these were new sacrifices — no danger of their being offered anywhere but at the religious center could reasonably be foreseen. It is the duty of a legislator to provide for anticipated evils, not to draft regulations which shall look symmetrical on paper.

[1] See preceding footnote. Moreover, *bikkurim* and *reshith* (first-ripe fruits and first-fruits) are not mentioned here, although they certainly existed. See, further, Deut. xviii. 4; xxvi. 1–11.

The last of the three overlapping groups of the priestly legislation consists of technical matters and details. Of these the law of leprosy is an admirable example. It will be seen at a glance that the regulations are far too specialized and complicated to be administered by a chance elder. Again, matters relating to Nazirites, the rules as to jealousy, prohibited degrees of relationship and many other matters were too elaborate and technical to be enforced or even taught without the assistance of a special class. And this leads me to speak of the occasional rules of jural law which are to be found in Leviticus xviii.–xx. Chapter xviii. contains but one verse which may be a jural law (ver. 29). The penalty is expressed in the words "shall be cut off from among their people." In view of such passages as xx. 3, "I will cut him off from among his people," it is impossible to say with certainty whether or not this verse contains a direction to the courts. A perusal of the whole chapter shows that the power of the courts is not the force on which reliance is primarily placed to secure obedience to the commandments embodied in it; but it is quite easy to understand how the secondary means of obtaining obedience came to be mentioned in a short exhortation to observe the commands there laid down. In the case of chapter xix., the exceptions to the principles enunciated above are merely formal, not real. In verses 5–8 we find rules relating to peace-offerings; and it is said that if one eat of a peace-offering at all on the third day, "that soul shall be cut off from his people." This probably means that the death-penalty is to be inflicted; but the context makes it clear that the passage is primarily a rule of sacrifice, and only incidentally a jural law. Similarly verse 20 requires, not that the courts shall take action in a specified case, but that they shall take no action; "they shall

not be put to death . . . and he shall bring his guilt-offering." In so far as this is a rule prohibiting the courts from acting, it may be regarded as jural law; but, obviously, in the main it is a sacrificial law. Chapter xx. also contains some jural laws; but they are mixed up with commands to which no penalty is attached, and with laws of God which are to be enforced by such sentences as "they shall die childless." A comparison of the jural laws with the provisions on the same topics contained in Exodus and Deuteronomy admirably illustrates the manner in which Exodus is confined to the tersest possible utterances, and how, where detailed rules were desirable, the priests were, if possible, used for their transmission. The legal contents of this chapter are entirely concerned with offenses that stand in special relation to religion, — giving children to Molech, witchcraft, and sexual offenses. A glance at the following table will bring out two points that I have endeavored to emphasize: first, the extreme terseness of the Sinaitic covenant document, and its suitability for memorizing; and, secondly, the tendency to put details that were connected with religion, not in one of the covenants, but in portions of the Law that were to be taught by the priests:—

Ex. xxi. 17 (a jural law)	5 words	Lev. xx. 9	16 words
Ex. xx. 14 (command)	2 "	Lev. xx. 10	15 "
Ex. xxii. 19 (18) jural law	6 "	Lev. xx. 15–16	27 "
Ex. xxii. 18 (17) (command)	3 "	Lev. xx. 27	16 "

With regard to the relation of this chapter to Deuteronomy, it should be added that two passages in this chapter (verses 2–5 and 11) have parallels in that book (Deut. xviii. 10 and xxii. 30). In both cases the jural laws are to be found in Leviticus xx., and Deuteronomy merely lays down commands which would influence public opinion. Further,

some of the other jural laws contained in this chapter are directed against crimes that are also dealt with in the curses of Deuteronomy. The other offenses mentioned are also kindred to those denounced in Deuteronomy and Exodus. So that, altogether, when this chapter is examined, it affords an interesting illustration of what has already been said, viz. that principles and matters intended to influence public opinion are found in one or other of the two covenants, while religious details are dealt with by the priestly teaching.

It will now be obvious why there is no occasion in Deuteronomy to mention the distinction between priests and Levites,[1] and why it is not to this book that we must look for sacrificial details. One point, however, calls for special notice. Dr. Driver has obviously been struck by the fact that the Day of Atonement is not mentioned in Deuteronomy. I believe that the views held by the critics have in this instance been colored very largely by their knowledge of modern Judaism. At present the Jewish year does culminate in the Day of Atonement; indeed (and this curiously illustrates a point that I wish to make), that institution has such a grip of the Jew that it is the last observance that he throws off. The great Fast is kept by many a man who habitually neglects sabbaths, festivals, dietary laws, and all the other Jewish observances. But we must not allow ourselves to think that, therefore, it should be dwelt on repeatedly in the Pentateuch. On the contrary, there was every reason why it should be passed over lightly. It laid no particular strain on the people and required no great sacrifice of time, labor, or property. It occurred only once a year; it was therefore not so likely to be broken as the weekly Sabbath. It called for no migration from home; and hence it was not as burden-

[1] See, however, *infra*, No. 20.

some as any one of the three festivals. It involved no loss of property; and it was consequently far less onerous than the law of firstlings. Where, indeed, was the temptation to break it? To this must be added two further remarks. It is true that the Israelite was to rest and afflict his soul on that day; but it is noteworthy that he is not required to take other action of any kind, either by bringing a sacrifice, or by offering some special prayer, or by making a pilgrimage. No doubt in Leviticus xxiii. 27 we find the words "ye shall offer an offering made by fire unto the LORD"; but the reference here would seem to be not to any offerings of individual Israelites, but to the public or general offerings ordained in Numbers xxix. 8. On the other hand, a glance at Leviticus xvi. shows that that chapter contains elaborate directions as to the ceremonial to be observed at the religious center. Important as the Day of Atonement undoubtedly was, it is clear that it could not originally have played any great part in the life of the individual or required much from him. The other remark I wish to make goes to the root of many observations of the critics. They have assumed that Deuteronomy xvi. contains a calendar.[1] Even on their own theories, this is manifestly untrue,

[1] Dr. Carpenter in the Oxford Hexateuch, vol. i. pp. 53–54: "The calendar of the annual feasts is repeated no less than four times. It is ordained in nearly parallel terms in the two collections of Covenant-words Ex xxiii and xxxiv. It is enjoined with rich hortatory additions in Deut. xvi. It is elaborately expounded in Lev xxiii, where two new items of high significance are added to the list."

With regard to Ex. xxxiv., it will be seen that, on the renewal of the covenant, which had been avoided by the worship of the golden calf, certain ordinances of the Sinaitic covenant were recapitulated. The point to notice is that the jural laws which would be enforced by the courts, and the Decalogue, which had been spoken by God, are omitted, while stress is laid on what may be called religious precepts in a narrow sense. So far as can be judged, it would seem that some of these were particularly bur-

because no mention is made of either sabbaths or new moons in that chapter. Hence it would be impossible to draw any conclusion from the fact that the Day of Atonement is not mentioned. But an examination of the chapter shows that it is mainly directed to insuring three annual pilgrimages to the religious capital on the three great Festivals and to giving the necessary incidental directions, so that any mention of an occasion on which the Israelite was not to make a pilgrimage or bring an offering would be utterly out of place.[1]

In conclusion, we may illustrate the practical application of what has been said by examining the distribution of the provisions relating to firstlings. First, the great historical event of the slaying of the first-born, and the consequent deliverance from Egypt, is made the occasion of a command to the people to sacrifice all firstlings (Ex. xiii. 1 ff.). It requires no great imagination to realize the effect of this appeal to the gratitude and the historical consciousness of the people. Then, when the people have proved false to their covenant with God, advantage is taken of the renewal of the compact to impress upon them the obligation once more (Ex. xxxiv. 19 ff.). In the law of redemption we naturally find some provisions about the redemption of firstlings (Lev. xxvii. 26–27), and in Numbers we meet with enactments regulating the due payable to the priests (Num. v. 9–10), and its subse-

densome, — like the law of firstlings, the Sabbath, and the pilgrimage Festivals, — while there must have existed very considerable danger of others being broken, owing to the circumstances of the age and the disposition of the people, e.g. the prohibition of idolatrous worship.

[1] With regard to Dr. Driver's argument as to the non-mention of the Tent of Meeting, I would point out that it was a tent, and not designed to be permanent; so that it would not naturally find a place in Deuteronomy by the side of the Ark and the priesthood.

quent disposition (Num. xviii. 15–18). Lastly, in the great popular book of Deuteronomy, which on the eve of the entry into Canaan lays stress on the law of the religious capital, we find commands to sacrifice the firstlings there, and not locally (Deut. xii.; xv. 19 ff.)[1] It would be easy, did space permit, to take other examples, and work them out similarly.

It may seem to some that I have wandered unnecessarily far from the subject with which I started, or, at any rate, that I have chosen the longest road. In such a criticism there would be a measure of truth; but yet it would be only a measure. It is impossible to read the works of the higher critics without seeing that most of their case rests on their exhaustive ignorance of legal matters. It is submitted that the true way of dispelling that ignorance is by bringing legal training and legal knowledge to bear on the manifold problems of the Mosaic legislation.

[1] See the Churchman, (London), for July, 1906, pp. 427–430.

XVII

DEUTERONOMY AND THE ARGUMENT FROM STYLE

[From the *Princeton Theological Review*, October, 1907.]

"In the ancient world the style was not the man himself, but a garment that he could change at will."—NORDEN.

THE higher critics of a certain school invariably represent the case for the division of the Pentateuch into a number of documentary sources as resting not on any single line of investigation but on the converging testimony of a number of different inquiries. Two of these perhaps may be said to enjoy a sort of preëminence, though for different reasons — the historico-legal and the literary. I have dealt with the former on many previous occasions.[1] In the present paper it is my purpose to treat of the latter with special reference to Deuteronomy. In doing so I shall endeavor to put my case in such a form as to make it intelligible to all educated readers, whether they be Hebraists or not. For reasons that will shortly appear, this course is very much easier to follow than might generally be supposed.

An inquiry of this sort is the more desirable because I have quite recently given expression to my conviction that the Pentateuch is not primarily a piece of literature. What part, it may naturally be asked, do literary considerations play in determining the form of those portions with which I am chiefly concerned — the legislation and the passages that cannot be detached from that legislation? I am the more ready

[1] Studies in Biblical Law; Essays in Pentateuchal Criticism; and The Origin of the Pentateuch. See, also, the Churchman (London), December, 1905; May, July, September, 1906; March, April, May, 1907; Bibliotheca Sacra for October, 1907.

to essay the task of answering this question because I believe that literary criticism — in the best sense of the term — will form an integral portion of the conservative case of the future. We may fairly presume that, long after the Mosaic authenticity of the Pentateuchal legislation is universally recognized, certain differences of style, together with the reasons for them, will be noted by those who devote to the Bible loving study. The future historian of biblical science will doubtless credit the higher critics with having drawn attention to many interesting phenomena, even while reprobating the fantastic theories, the inability to weigh evidence, and the extravagant exaggerations that have marked their career. And this consideration helps to make clear the nature of the task that must be accomplished if the documentary theory of the Pentateuch is to be dethroned. A successful refutation cannot be merely destructive: it must be also — and principally — constructive. The reason for this is not far to seek. If a hypothesis is proved to be untenable while no explanation is offered of the phenomena for which it was designed to account, another theory must inevitably arise to fill its place. This of course holds good only where the phenomena are real. Where they are simply the creation of an overheated imagination which has been allowed to dwell too long on insignificant details, a little timely ridicule, or the diversion of the mind to another set of facts, or mere lapse of time will be sufficient to remedy the evil. It is because the so-called literary or philological argument of the higher critics is based in part on phenomena of the first class that the work of examining this portion of their case possesses some interest. Unfortunately it must be coupled with the less congenial duty of pointing out the defects in their methods, equipment, and reasoning.

Our first task must be to inquire, What is meant by the philological or literary argument? The word "philology" is often used to denote the science of the history of language. It is not in that sense that the higher critics generally use the term when they put forward their "philological" argument for the documentary theory. It is necessary to dwell on this point, because many readers who are not Hebraists suppose that there are philological grounds (the term "philological" being used in the sense just indicated) for the divisive hypothesis. That is not so. Material drawn from the real or supposed history of the Hebrew language is scarcely ever put in the forefront of the critical case. The only striking exception to this statement that occurs to me is to be found in an assertion recently made by Dr. C. A. Briggs:—

"The language of the four great documents is so different, that they must have been composed by different writers. The difference of language extends to a very large *vocabulary,* each of these documents having its own Lexicon. And these differences are not merely differences of synonym; they are differences representing different centuries in the historical development of the Hebrew language. These documents of the Pentateuch represent a language that did not exist until centuries after the death of Moses. The evidence for all this has been given only in part in Driver's *Introduction to the Literature of the Old Testament,* and in my *Higher Criticism of the Hexateuch,* and many other recent works; but it is fully given in our new Hebrew Lexicon, now completed, in which Drs. Brown and Driver and myself have carefully examined and classified the uses of all Hebrew words in the Old Testament according to their historical development in the literature. It is impossible for anyone to study the complete series of these words as we have done, without coming to the con-

clusion which we have reached in entire concord, that Moses could not have written any one of the great documents of which the Pentateuch is composed." [1]

This statement is so entirely exceptional that I think it best to postpone consideration of it until we have examined the ordinary critical argument. It will be observed that Dr. Briggs himself admits that " the evidence for all this " is only put forward in part in the recognized books on the subject, and his reference to the new lexicon is too vague to be of much value. It will be best to examine the recognized evidence before attacking the newest critical position.

The following extract from the Oxford Hexateuch gives us a representative statement of the ordinary argument:—

" But it may reasonably be expected that materials of different ages, drawn from separate sources, will be marked by their own characteristics of style or expression. Peculiar turns of phrase, due to the vivacity of oral narrative, or significant of legal precision, or repeated by the impassioned earnestness of the preacher, may be found to coincide with different groups of narrative or law already distinguished from each other by incompatibilities of content. The recurrence of these peculiarities becomes in its turn a warning; and each additional instance, in accordance with the general law of probabilities, brings far more than its own individual weight. Moreover their effect is again heightened if there is reason to believe that they can be in any way connected with other forces of thought and life. The journalist who should lightly talk of 'the tendency not ourselves' or of 'sweetness and light' might safely be placed with Matthew Arnold in the second half of the Victorian age. The teacher who dwelt on 'the silences' and 'the eternities' could not have taught be-

[1] The Papal Commission and the Pentateuch, pp. 11 and 12.

fore Carlyle. A cause must be found for the different philosophical vocabulary of Coleridge compared with that of Hume. The devotional utterance of Watts and Doddridge is couched in a different idiom from that of Newman and Faber. In the same way if one group of chapters which there is independent reason to assign to the seventh century, shows marked affinities of expression with Jeremiah, and another group with Ezekiel, it may be possible to explain the resemblances on the hypothesis of the indebtedness of the prophets, but the student must also consider the probability that they may be due to the influences of separate religious schools." [1]

It will be seen that nothing is here said of phonetic evolution or the history of words. The argument is not philological in the narrow sense of the word. But attention is drawn to the fact that there may be differences of style, and it is suggested that in certain circumstances there may be some connection between these and other forces of thought and life.[2] We must notice, too, that in this passage — which gives us a very fair and moderate exposition of the line of argument adopted by most higher critics — several qualifications are introduced. It is first supposed that different groups of narrative or law are already distinguished by incompatibilities of content. That is to say, the writer in the first

[1] The Hexateuch, edited by J. Estlin Carpenter and G. Harford-Battersby (1900), vol. i. p. 15.

[2] A writer in the Church of Ireland Gazette makes the following interesting comment: "A rather nice point is missed in connection with the quotation from the Oxford Hexateuch:—'The journalist who should lightly talk of . . . "sweetness and light" might safely be placed with Matthew Arnold in the second half of the Victorian age.' The precarious nature of the literary argument is well illustrated here; for this identical expression is, of course, found in Dean Swift:—'The two noblest things, which are sweetness and light.'"

instance assigns to the stylistic argument an ancillary character. Then he very fairly admits that resemblances between Jeremiah or Ezekiel on the one hand and certain portions of the Pentateuch on the other may possibly be explained on the hypothesis of the indebtedness of the prophets: and a moment's thought will convince any impartial reader that such a view contains nothing that is improbable. If, for example, Deuteronomy — whether a genuine work of Moses or a recent literary forgery — was discovered (or rediscovered) in the time of Jeremiah, it can occasion no surprise that it should have exercised a powerful influence on his style. A further claim is, however, made for the argument. "The recurrence of these peculiarities becomes in its turn a warning"; in plain English, the Pentateuch is dissected in part on grounds of style.

That an argument from style is necessarily very subjective is a truism that need not be labored. But experience in refuting other branches of the higher criticism suggests the necessity of inquiring whether, in this instance, those qualities which should mark all scholarly work have characterized the critical investigations. I can well remember my experiences on first entering on the consideration of the authorship of the Pentateuch. Legal studies had convinced me that there existed a quantity of material from which the authenticity of the Mosaic legislation could be proved, and I read the Oxford Hexateuch for the purpose of ascertaining on what the critics relied. While it was natural to expect that in legal matters the writers would be very much at sea, I yet supposed that in all other respects they would present me with work that would not fall short of the best achievements in other fields of study. As I read on, this impression was deepened. I found that their conclusions were the result of

centuries of labor. I saw great names cited. Spinoza had discerned certain difficulties in simple narrative. Now if, since 1671, the best brains that had studied the Bible had been unable to answer what were alleged to be glaring discrepancies in simple narrative, was it not certain that no adequate reply could be found? But suddenly I came across assertions that no reverence for great names, no faith in the results of century-long study, no belief in the efficacy of controversy or the efficiency of controversialists, could induce me to accept without independent investigation. Thus I read that "in the narrative of the plagues it will be found that one set of stories places the Israelites in Goshen, where the wonders that are wrought in Egypt do not affect them Ex viii 22 ix 26; while another locates them among the Egyptians and secures them miraculous exemption x 21–23."[1] The results of my investigation of this statement will be found elsewhere:[2] here it is sufficient to point out that a few such assertions rapidly succeed in teaching the most unsuspicious of readers to accept no statement of fact of the higher critics without first testing it for himself. I well remember the horror produced in my mind by the results of my efforts to verify the first batch of improbable statements to which I devoted my attention — a horror which was only heightened by the transparent honesty of the writers who made them. I can offer no account at all of some of the phenomena I have observed, but in some cases a knowledge of the origin of the statements elucidates the mystery: and as this is a matter that must gravely affect the views taken of the higher criticism, it may be well to devote some lines to discussing the subject. As Dr. Driver's "Deuteronomy" will

[1] Oxford Hexateuch, vol. i. p. 32.

[2] Studies in Biblical Law, pp. 34–35, and Essays in Pentateuchal Criticism, pp. 57 ff.

hereafter be taken as representative of the critical position, it is natural to select illustrations from that work, when possible.

The first cause of error to which attention may be drawn is the habit of borrowing statements from other writers — usually without any indication that they are not original. Here is an illustration: "There are only *three* facts mentioned in Dt. for which no parallel is to be found in JE: i. 23 the number (twelve) of the spies (Nu. xiii 2–16 P); x 22 the number of souls (seventy) with which Jacob came down into Egypt (Gn. xlvi 27 Ex. i 5 P); and x 3 acacia-wood as the material of the Ark (Ex. xxv 10 P)."[1] Dr. Driver is here arguing for the dependence of Deuteronomy on those portions of the Pentateuch which he assigns to the "sources" called JE, and its independence of the other "source" called P. Now whether the Pentateuch should be divided between these (or any) sources is a matter of opinion; but, once the division is effected, the question whether D mentions only three events that are not to be paralleled from JE is a question of fact. Though I have not searched Deuteronomy for the purpose, I can, with the help of Dr. Driver's own notes, suggest at least four more, viz. iii. 27, the permission to view the promised land from afar (see Driver, p. 60); viii. 2, the period (forty years) spent in the wilderness (see Driver, p. 106); ii. 2–14, the fact that the years in the wilderness were spent in wandering, Num. xxxii. 13 P, cf. Num. xiv. 33 P, where some read "wanderers" for "shepherds"[2]; and xxix 12 (13), the promise to be to Abraham for a God. The last two instances are remarkable for different reasons. The wandering is a test case of first-rate importance; for, in Dr. Driver's

[1] Driver, Deuteronomy, p. xvi.

[2] This only involves the change of a single letter in Hebrew.

opinion, JE represents the Israelites as having remained stationary at Kadesh for some thirty-eight years (see Driver, pp. 32–33), and is in hopeless conflict with Deuteronomy. I have elsewhere [1] shown that the text of Numbers is not in order, and that when scientific textual criticism is applied, the difficulties disappear; but, for the purpose of testing Dr. Driver's statements, we must, of course, postulate his position, and assume that there are three irreconcilable documents JE, D, and P. On that assumption it is vital to the purpose in hand to note that D agrees with P and contradicts JE.

The other point is also very instructive. In commenting on Deuteronomy xxix. 12 (13), Dr. Driver expressly admits (p. 323) that the promise "to be to Abraham for a God" is found in Genesis xvii. 7, 8 (P), but hastens to add that "there is no mention of a corresponding promise to Isaac or Jacob." The next sentence must be transcribed: "But no doubt the reference is to passages such as Gn. xxii 16–18 xxvi 24 xxviii 13 f. (JE), the conditions involved tacitly in the promises there recorded being converted here into a formula expressing them distinctly." So that when, on his own showing, a reference is to P, Dr. Driver finds an allusion to something "involved tacitly" in passages which might contain the desired statements, but unfortunately do not. Attention should here be directed to the *bias* that characterizes this note. It affords the key to many problems, and goes far to explain the general untrustworthiness of the work of the higher critics.

Now, at first sight, Dr. Driver's statement appears quite inexplicable. What, it may be asked, could have led him to assert that only *three* facts were mentioned in Deuteronomy for which no parallel is to be found in JE, if in his own notes he recognized that there were actually many more? The an-

[1] Essays in Pentateuchal Criticism, pp. 114–138.

swer is that the writings which pass under Dr. Driver's name are, in fact, often *composite*. It is not usual to dissect the publications of contemporary writers in the way in which the higher critics dissect the Pentateuch; but this should not blind us to the facts of the case. When Dr. Driver makes his assertion about the three facts he is apparently copying Cornill — seemingly without any independent investigation of the accuracy of that author's statement. Unfortunately he gives not the slightest hint that he is basing himself on the dictum of another writer.

Next, the accuracy and trustworthiness of the critical work are greatly impaired by a cause that has already been touched upon — an overwhelming bias. As already explained, Dr. Driver believes that D — the main source of Deuteronomy — was dependent on "JE" and independent of "P" (including "H"). He appears to regard the argument from style as falling under two heads: (1) the argument from words and phrases, and (2) the argument from rhythm. He remarks (p. lxxvii) that the book "presents comparatively few exceptional words," and he presents us with the first part of his stylistic argument in the shape of a list of "the most noticeable words or phrases characteristic of Deuteronomy." This embraces some seventy numbered sections, and covers nearly six pages of his introduction. The first sixteen may, in Dr. Driver's opinion, "have been suggested to the author" by certain sections of "JE." Now, among these, I find the following: "The *covenant* (ברית) either with the patriarchs, or with Israel (expressing a fundamental theological idea of Dt.)." Dr. Driver then gives the references in Deuteronomy and "JE" (p. lxxix, No. 8). But he does not mention that in "P" the word is also very frequent in covenant passages, occurring, for example, no less than three times in a single

verse (Lev. xxvi. 42); that some of the most important covenants are narrated in "P" only, and that it is not less a fundamental theological idea in "P" — and for that matter in "JE" — than in "D." It may be open to question whether collections of words have the probative value attributed to them by the higher critics; but, if they are to be used at all, the whole of the relevant facts should be fully and impartially stated.

What has been said about the inaccuracy of the critical work applies to the other branches of their case as much as to the argument from style. So do some of the other considerations that must be urged: but, owing to the special character of their argument, our illustrations of the other causes that are operative to render their labors nugatory will be drawn exclusively from this part of their work.

First, then, their selection of words frequently causes profound amazement. Take the following from an argument in the Oxford Hexateuch as to the first seven chapters of Leviticus: "Attention may also be called to the large group of cultus terms and formulæ, the constant repetition of which is characteristic of the legal style of P: thus, *Aaron's sons, atonement, without blemish* (*perfect*), *bring near* (*offer, present*), *burn, burn with fire, clean, guilt offering, heave offering, holy, kill, lay his hand on, meal offering, oblation, offering made by fire, sacrifice of peace offerings*," etc. (vol. ii. p. 144). It will be noted that all the above are technical terms or terms that are peculiarly appropriate in regulations for sacrifice at the religious capital. This is emphasized if we take the words that might appear to an English reader to be general words, and follow up the remarks made about them in the Oxford Hexateuch itself. Thus, on the word "burn"

(הקטיר) we find the following: "Ex xxix 13–Num xviii 17 (sacrificially) forty-four times" (vol. i. p. 210); and of "kill" (שחט) we read: "Ex xii 6 and onwards, forty-two times, ritually" (vol. i. p. 214).[1] The argument therefore amounts to saying that in a technical passage technical terms are used. To give it any force at all, it would be necessary to prove either that "P" would have used these terms in narrative, speeches, civil laws, etc., if he had composed the whole Pentateuch, or else that "D" or "JE" would not have used them in technical sacrificial regulations. It need scarcely be said that no attempt is or can be made to prove anything of the sort.[2]

A second defect in the critical work is due to the inability of its authors to appreciate the subtle motives that influence great writers. Civilians have a division of "things" that recurs to the mind — fungible things and non-fungible things. Fungible things are those *quae pondere, numero, mensurave constant* — things that are weighed, counted, or measured, — such as money, wine, oil, corn, bronze, silver, gold. Non-fungible things are all others. For the critics, words are mere fungible things. For great artists, they are non-fungible. That is the secret of many phenomena that puzzle modern commentators. Eye and ear — especially ear — are needed to appreciate the choice of words; and a sense of form and an apprehension of subtle shades of meaning of

[1] In this latter case we are invited to "contrast J Ex xxxiv 25 Num xi 22, RJe Num xiv 16, E Gen xxii 10 xxxvii 31," but without being told what inferences, if any, we are to draw from the contrast. Are we meant to infer that in the proposed slaughter of Isaac (Gen. xxii.), or in the prohibition to "kill [R. V. "offer"] the blood of my sacrifice" (Ex. xxxiv.), the word is not used "ritually"?

[2] Instances from Deuteronomy will be found in the appendix to this paper.

which no signs are to be found in the critical work. Some examples of some words and phrases from Deuteronomy, the use of which appears to me to have been dictated by considerations of euphony, will be found in the appendix. Confining ourselves to mere single words or expressions, it is impossible to give instances that would be intelligible to readers who are not Hebraists, but if we go beyond these it is easy to produce a most convincing example. There can be few English readers who have not admired the sublime opening of the book of Genesis. Here is the usual critical version: "These are the generations of the heaven and the earth when they were created. In the beginning," etc. The explanation given by the Oxford Hexateuch should prove illuminating. "It has long been recognized that the Book of Genesis is primarily based upon a document containing a series of sections introduced by the formula 'These are the generations of . . . '. . . The *tolᵉdhoth* [i.e. "generations of." H. M. W.] formula of Gen ii 4a is not appropriate to the narrative which follows it in ii 4b ff., for this says nothing about the creation of the heavens or the earth, but deals with the formation of the first man after they were made. On the other hand its form and substance are both congruous with the account of the creation of the universe in i 1–ii 3. In other sections, however, the formula always precedes the matter which it designates. It is probable, therefore, that it originally stood before i 1, and was transposed by the editor who combined the two documents, to serve as the link of combination" (vol. ii. p. 1).

So not only words, but sections and sentences, are to the critics fungible things — things *quae pondere, numero, mensurave constant*. If I borrow a sovereign, I am under an obligation to pay back a sovereign — any sovereign — not

necessarily the actual coin I borrow. *All* are legal tender. And similarly with the book of Genesis. If I do not begin with one sentence, I must begin with another. *All* are legal tender, and literary considerations — using the word "literary" in its best sense — do not enter into the question. But as all sovereigns conform to a certain type, so must all the sections of "P" in Genesis. There is no difference between the minting of coins and the minting of sections of Genesis.

But what if literature is not within the jurisdiction of the foot-rule? How if a commentator on a great author must be endowed with some appreciation of literary beauty, if he is to perform his task successfully?

The next cause that falls to be noticed is the lack of judgment and the inability to weigh evidence that characterize the application of the critical tests. For the sake of brevity, the first instance will be taken from Genesis, since in that book it is easy to find examples limited to a single verse. In a genealogy we read: "And Lamech lived an hundred eighty and two years, and begat a son" (Gen. v. 28). The whole of this down to "begat" is given by the Oxford Hexateuch to "P," but "a son" is assigned to "J" — an author who, with truly prophetic foresight, took the unusual step of composing the end of the sentence some centuries before "P" wrote the beginning. The reason given throws much light on the analysis. The preceding items in this genealogy all conform to the type "And A lived x years, and begat B." Accordingly we read in the note: "The uniformity of P's style leads us to expect here the name of Noah. The compiler, however, wishing apparently to utilize J's explanation of it, has inserted it at this point, having no doubt found it in the list which traced Noah's descent through Seth iv 25 f.

That pedigree has apparently been rejected by the editor in favour of the more highly systematized scheme of P," etc. (vol. ii. p. 8). In other words, "P" could not have written "a son" in verse 28, because he has not done so in other verses, and we can feel the genius of fungible things — things *quae pondere, numero, mensurave constant* — hovering over us. It would be interesting to know what course was open to "P" if he too desired to give an explanation of Noah's name. Are the premises in any way commensurate to the conclusion? Would it not be easier to suppose that "P" could vary his language when occasion demanded than to postulate this extraordinary machinery of lists and compilers?

Another curious instance may be taken from Dr. Driver's statement that Deuteronomy xi. 4 follows Exodus xiv. 27 JE (pp. xv, xvi). He is speaking of a number of incidents of which the passage of the Red Sea is one, and he writes "in the case of some which are narrated in P as well, the terms of the allusion in Dt. are such as to show that the Writer followed JE, and not P." Here are the two passages in parallel columns:—

EXODUS XIV.

27 [P] And Moses stretched forth his hand over the sea, [JE] and the sea returned to its strength when the morning appeared; and the Egyptians fled against it; and the LORD overthrew the Egyptians in the midst of the sea; 28 [P] and the waters returned, and covered the chariots, and the horsemen, even all the host of Pharaoh that went in after them into the sea.

DEUTERONOMY XI. 4.

And what he did unto the host of Egypt, unto their horses, and to their chariots; how he made the water of the Red Sea to overflow them as they pursued after you, and how the LORD hath destroyed them unto this day.

Is there any evidence which would justify the statement that Deuteronomy is here based on "JE," to the exclusion of "P"? Or, indeed, is there here any evidence which would justify any inference at all?[1]

Two other sources of error remain to be dealt with; but, as they are more appropriate to the argument from rhythm, I proceed at once to dispose of the list of words. For this purpose it is necessary to look at Deuteronomy itself, and see what it professes to be.

The most superficial reader of the book must be aware that it consists mainly of three great speeches. He will not, therefore, be greatly surprised to find that the language is colored by this fact, and that appropriate phrases and rhythm are used, or that some of the terms employed appear to be popular rather than technical.

At the conclusion of the central and longest speech we are told that "these are the words of the covenant which the LORD commanded Moses to make with the children of Israel" (Deut. xxviii. 69 (xxix. 1)). It requires no great grasp to enable us to understand that language appropriate to a covenant is likely to be used.

The covenant embodied a code of laws. It is natural that we should find in it expressions that were proper for a lawgiver to use. Nay, more, the task of the lawgiver was con-

[1] Strangely enough, Dr. Driver has a footnote on the next page (xvii) in which he says: "In xi. 4, 5 *host* (חיל), *horses and chariots*, and *pursued after them*, are points of contact with P's narrative of the passage of the Red Sea in Ex. xiv." He then collects some other "points of contact," and adds: "it may be questioned whether these expressions are not too isolated, and too little distinctive, to establish dependence upon P." But, what expressions establish the dependence of Deut. xi. 4 on JE? Where is the *evidence* that supports his view?

ditioned by the circumstances of the time. The people were just entering a land in which idolatrous high places abounded, and there was grave danger that at these they would offer sacrifices which for religious and national reasons ought to be brought only to the House of the Lord. We may therefore expect to find emphasis laid on the law of the religious capital; and this, again, must affect the language. In other ways, too, the historical situation will color the orator's phrases. What wonder if he should make frequent reference in glowing terms to the approaching entry into the land?

We have yet another piece of information about the book which must be taken into account. The book contains a code of law addressed to the people in the form of a speech. But it was not only on the occasion of its first delivery that this speech was to go before the people. On the contrary, it was to be read to them once in every seven years. Having regard to this, and also to the object of Moses, the nature of the people, and the circumstances of the time, we cannot wonder if he lays stress on the duty of being faithful to God, inculcating obedience to His precepts at every opportunity, holding out inducements to those who obey Him, uttering warnings as to the result of infidelity, and putting before the people the national evils of impiety.

These few and simple remarks dispose of the great bulk of Dr. Driver's numbered paragraphs. I have classified the particulars in the appendix, to which those who care for the details may turn. Of course I do not claim that all the items in this classification will commend themselves to everybody. In many cases two or more reasons have combined to make the use of a particular phrase natural. The influences that determine a great stylist's choice of language are both numerous and varied, and it would be absurd for anybody dogmat-

ically to assign reasons for the phraseology employed by a speaker three thousand years ago, or to pretend that he can hear with the ears of an Israelite of the Mosaic age. Thus I expect that there will be many divergences of opinion both as to the phrases I have selected, and those I have omitted, and also as to the reasons assigned. But I think that when all deductions have been made, it will appear that the great bulk of Dr. Driver's selected phrases can be accounted for by a few simple considerations. Assuming that Moses did at the end of his career make speeches, one of which embodied *inter alia* a number of laws in the form of the terms of a covenant, that the subject-matter of those laws was similar to the contents of the Deuteronomic code, and that the historical circumstances were such as the Bible represents them to have been, there is nothing in these lists to warrant any deductions as to authorship. If any critic doubt this, let me suggest to him a very simple test. Let him rewrite some other portion of the Pentateuch, say the first chapter of Genesis, as he thinks the Deuteronomist would or should have written it, with the "Hear, O Israels," and the "good lands," the "statutes and judgments" and the exhortations not to forget, which are gravely put forward in evidence. Or, conversely, let him rewrite some portion of Deuteronomy as he thinks P or JE would have written it. Far be it from me to affirm of any higher critic that in this way he would convince himself: but if he would only publish his results, he would speedily find that ridicule still has power to kill.

But it is on yet other considerations that I rely finally to clinch the matter, and these may best be advanced in connection with Dr. Driver's argument from rhythm:—

"Of course a tabulated list of idioms cannot adequately

characterize the style of an author; there is an effect produced by the manner in which phrases are combined, and by the structure and rhythm of sentences, which defies tabulation, or even description, and which can only be properly appreciated by repeated perusal of the work in question. Those who have by this course familiarized themselves with the style of the Deuteronomic discourses, will be conscious how greatly it differs from that of any other part of the Pent. — even the parenetic sections of JE, which show a tendency to approach it, not exhibiting the *complete* Deuteronomic rhythm or expression" (p. lxxxv).

And here at last we are on bed-rock. In this instance Dr. Driver is right in his facts. Is he right in the interpretation he puts upon them or even in the method of his study? It is to this that the last two charges in my indictment of the critical argument from language — other than the unique dictum of Dr. Briggs — are directed.

The ideal commentary on Deuteronomy would devote a section of the introduction to considering the place of Moses among the great orators of the world and to estimating his oratory as literature. Corresponding to this there would be notes dealing with details of style from the standpoint of the orator's art and in the light of the comparative material. But the ideal is not yet realized, and probably no biblical student has any conception of what we miss. After all, the speeches of Demosthenes and Cicero and Burke are also characterized by a very marked rhythm. When I look at attempts such as those of Sievers to scan certain portions of the Bible (e.g. Jer. i.) that would be regarded as prose in any other language, I cannot help feeling that a knowledge of the existence of prose rhythm would probably revolutionize the attempts of

modern writers to discover meters in the Bible.[1] In the case of some authors a good deal of work has been done of recent years; and, while I must not be taken as suggesting that everything that is true of other prose rhythms may be applied to Hebrew speeches, I cannot but see how a knowledge of other fields of literature would modify the conclusions of biblical students. We should no longer be presented with the familiar lists of words, nor should we be invited to believe that *asyndeta* add a measured dignity to style[2]; but, on the other hand, we should have our attention drawn to numberless literary beauties to which commentators have hitherto been blind, and we should rise from a study of the Book with a truer knowledge of its place among the literatures of the world and a juster appreciation of its manifold greatness.

And that leads me to my last point. The critical case rests on the assumption that differences of style prove differences of authorship. What has the comparative method to teach us as to this premise? Does it confirm its soundness? The answer — which sweeps away the foundations of the critical argument — is in the negative. There is a passage in Norden's "Kunstprosa," — not to be translated for fear of losing the flavor of the original, — in which the author asks what

[1] I may be allowed to quote a sentence from the preface to the second edition of Blass's Attische Beredsamkeit: "Man muss nicht mit dem maître de Philosophie bei Molière hartnäckig sagen: *tout ce qui n'est point prose est vers, et tout ce qui n'est point vers, est prose*, sondern es ist den Attikern des 4. Jahrhunderts ein mittelding zwischen beiden zuzugestehen wenn man den Thatsachen gerecht werden will" (vol. iii. pt. 1). Any Hebraist who will carefully examine such a passage as Deut. xxviii. 38–41 — its rhythm, its antitheses, the order of the words — will see for himself that there are grounds for supposing that a similar remark would apply to Mosaic oratory.

[2] Driver, Deuteronomy, p. lxxxvii, note.

influence the individuality of the writer had on his style in the ancient world, or, in other words, how far Buffon's *le style est l'homme même* holds good for that period. Norden concludes that style was an acquired art, that individuality was subordinated in a far higher degree than to-day, and that one and the same writer could write in different styles according to the task in hand.[1] The case of Moses is to some extent different from that of any classical writer. He could have had stylistic models only within very narrow limits. A few traditions, a few songs and poems, a few "dooms" pronounced by the elders, would have constituted the sum total of the Hebrew literature that he found. Nevertheless, I see no difficulty in supposing that, when occasion demanded, he was capable of creating a style suitable for the matter in hand. After all, the purposes of the various portions of the Pentateuchal legislation are palpably diverse. While the judgments are written in a form suitable for memorizing (which may have conformed to what was usual in the traditional "dooms" pronounced by the courts of elders), it is obvious that no speech could have been composed in the same style. Here,

[1] Bevor ich zum einzelnen übergehe, habe ich noch kurz eine Vorfrage zu berühren: welchen Einfluss hatte im Altertum die Individualität des Schriftstellers auf seinen Stil oder, mit andern Worten, wie weit gilt auch für jene Zeit Buffons Ausspruch *le style est l'homme même?* Zwar hatte auch das Altertum ein Sprichwort: οἷος ὁ τρόπος, τοιοῦτος καὶ ὁ λόγος, aber wir dürfen nicht verkennen dass der Satz in der Praxis nicht so grosse Bedeutung hatte wie bei uns. Der Stil war damals eine erlernte Kunst, deren Regeln im allgemeinen keiner seiner Individualität zuliebe übertreten durfte, wie ja überhaupt das Altertum in viel höherem Masse als die moderne Zeit vom Individuum die Unterordnung seiner Eigenart unter die Autorität der von hervorragenden Kunstrichtern sanktionierten Tradition, die Zurückdrängung des Genialischen, verlangt hat. Daraus ergiebt sich zweierlei. Erstens: die Individuen treten zurück hinter allgemeinen Richtungen der Zeit, deren Repräsentanten sie sind. Zweitens: ein und derselbe Schrift-

then, necessity must have been the mother of invention. And in dealing with the third style — that of the great body of "priestly" legislation — it must be remembered that the purpose was again different. Here we are not dealing either with a speech or with dooms to be committed to memory, but with complicated and technical rules to be transmitted by a specially trained class who would teach the people (Deut. xxiv. 8; Lev. xiv. 54–57). It is possible to point to modern instances of similar versatility. Let the Indian Penal Code which was drafted by Macaulay be contrasted with the speeches and ballads of the same writer, and similar divergences of vocabulary and rhythm will at once become apparent. If it be urged that Macaulay came after a period of long literary development, I answer: (1) that it is impossible to lay down narrow rules which no genius can transcend, and (2) that no man, however gifted, could have written "dooms" and speeches in the same vocabulary and rhythm and made a success of both. A man of genius who found himself confronted with such very different tasks could not avoid creating the means of executing them. In a word, I conceive that

steller konnte nebeneinander in ganz verschiedenen Stilarten schreiben, indem er bald diese, bald jene ἰδέα verwendete, je nachdem sie ihm für das vorliegende Werk zweckentsprechend schien. Wir Moderne haben durch Verkennen dieser Thatsache vielfach geirrt, aber die Zeiten sind vorbei, wo man auf dies Argument hin dem Platon den Menexenos, dem Xenophon den Agesilaos, dem Tacitus den Dialogus, dem Appuleius die Schrift De Mundo und so vielen Autoren so vieles aberkannte, oder wo man sich darüber wunderte, dass der Aristoteles der pragmatischen Schriften in seinen Dialogen so dämonisch zu schreiben verstand. Selbst die so beliebten Schlüsse von der Stilverschiedenheit zweier Werke eines und desselben Autors auf eine verschiedene Abfassungszeit, sind selten zwingend und oft durch Thatsachen anderer Art zu widerlegen. Der Stil war im Altertum nicht der Mensch selbst, sondern ein Gewand, das er nach Belieben wechseln konnte (E. Norden, Die Antike Kunstprosa (1898), vol. i. pp. 11–12).

in each case the style was merely a tool forged by Moses for the accomplishment of his purpose.

We must now come back to Dr. Briggs, who claims that the language used did not exist until centuries after the death of Moses. After what has been said of the inaccuracy of the critical work, it is not necessary to take this claim too seriously.[1] If and when Dr. Briggs chooses to specify the facts on which he relies, there will be time enough to answer his argument; but a mere vague reference to his Lexicon is no sufficient clue to the evidence. Nevertheless, it is not so difficult to answer Dr. Briggs as might appear, because it happens that I have myself had to examine the uses of a few of the words to which Dr. Briggs has devoted special attention. On the occasions on which I use his Lexicon (which is generally when I want information about some technical term), I am usually amazed at the backward state of lexicographical studies. The very first things that strike me about a word are usually points that have never been noticed at all by our lexicographers. In fact here, as elsewhere, I am separated from the higher critics by differences of training, of temper-

[1] Here is a sample from Dr. Briggs himself:—

"A careful study of the term תּוֹרָה, as applied to law, makes it evident that it was the earlier usage of all the documents of the Hexateuch except P to regard תּוֹרָה as the Law in general, as embracing a complex of words, statutes, judgments, commands, and that the use of תּוֹרָה, תּוֹרוֹת for particular laws is post-Deuteronomic. Such laws are to be found only in P (see *New Hebrew Lexicon*, p. 435)." (Higher Criticism of the Hexateuch (new ed. 1897), p. 255.) But on p. 436 of the Lexicon Dr. Briggs writes of this word: "law (prop. *direction*): viz: of *special laws*, singular of Feast of Massoth Ex. xiii. 9 (J), sabbath xvi. 4 (J); of direction given by priests in particular case Deut. xvii. 11." It might be added that the language of Deut. xxiv. 8 (see Driver, *ad loc.*) would in itself be sufficient to render Dr. Briggs's theory extremely improbable.

ament, and of scholarly ideals. I propose to take a single example of Dr. Briggs's work; and, in discussing it, I shall endeavor, so far as may be, to emphasize the distinctions between the historico-legal methods and those employed by Dr. Briggs. To this end I shall marshal a number of facts and arguments that are quite out of proportion to the intrinsic importance of the statements investigated.

"The earliest type of Hebrew law is the דבר Word, not so much a particular word as a word-group — a saying, discourse, utterance, sentence."[1]

This statement occurs in an appendix on Types of Hebrew Law added to "The Higher Criticism of the Hexateuch" in the 1897 edition, as the result of the work done for the new Lexicon. We are then informed that the "word" is spoken by God either directly, as in the Decalogue, or "immediately [Dr. Briggs probably means mediately. H. M. W.] through Moses and the prophets who succeeded him. Accordingly דבר becomes the term for the message of the prophets, and later for the sentences of the Hebrew wise men." "These Words are in the second person singular of the verb, and with the negative, and are brief terse sentences without reasons, without specifications, and without penalty. All such additions to the Words are redactional."

I proceed to outline the methods of attacking these statements.

1. We may turn to the history and see what it has to teach us. The book of Genesis, for example, is full of law. To take a few general instances: we find traces of a law that in certain cases a slave might inherit from his master to the ex-

[1] Higher Criticism of the Hexateuch (new ed. 1897), p. 242.

clusion of that master's collateral relations;[1] we have law regulating conveyances of land (Gen. xxiii.), law of theft (Gen. xxxi. 32; xliv.),[2] law of murder, birthright, marriage, slavery, etc. In some cases this was customary law that may not have been formulated. In others — e.g. murder and theft — it was impossible to escape formulating it. If it be asked what evidence Dr. Briggs has that such laws were known as "words" and conformed to some particular "type" or were sentences spoken by God, the inevitable answer is not merely that he has no such evidence, but that it has never even occurred to him to consider the matter. Yet if it were true that the earliest type of Hebrew law was the "Word," it would be possible to show that the earliest laws were "Words."

2. Even if we had no history to help us, we should know, from the universal experience of mankind and the nature of society, that the Hebrews had law as soon as a society existed. "It is an old saying, *ubi societas ibi jus est:* where there is a society there is law. And perhaps no better account can be given of what is commonly understood by law than that it is a body of rules expressing the claims which, in a given society, are held to be enforceable and are more or less regularly observed. When a claim is urged but is not held to be enforceable, it is commonly called a moral claim as distinguished from a legal one. On the other hand, where no claims have become legal ones, there cannot be a society in any true sense. . . . So the maxim *ubi societas ibi jus est* correctly puts before us society and law as mutually dependent. They must

[1] Gen. xv. 2–4; cf. Prov. xvii. 2; xxx. 23; and, for a parallel, among the Wanlamwesi see Kohler in Zeitschrift für vergleichende Rechtswissenschaft, vol. xv. p. 43.

[2] Cf. Post, Grundriss der ethnologischen Jurisprudenz, vol. ii. pp. 427–428, 442.

have been inseparable as facts from the earliest time at which there was any intercourse between men, probably before there was any clear consciousness of the notions corresponding to the facts, and they are still inseparable in all departments of intercourse between men. Without society no law, without law no society."[1] In other words, law is the necessary cement of every social fabric. Here, again, Dr. Briggs has never stopped to consider whether any society could exist for a single week on his "Words," or what the state of affairs was before these "Words" were given or forged. Yet the whole body of the Pentateuchal legislation presupposes the existence of a body of well-settled law dealing with the everyday occurrences of life. For example, there is no rule providing for the descent of chattels or live stock on the death of the owner. Yet we cannot infer that no owner of movable property ever died. The ordinary rules must have been settled long before the days of Moses, and were left practically untouched by the Mosaic legislation.[2]

3. The "words" to which Dr. Briggs refers are not laws at all. Take "thou shalt not steal." The question at once arises what penalty is to be inflicted on a thief. In Genesis and Exodus we find the following in different cases: death, slavery, manifold restitution. How could any court administer Dr. Briggs's "Words" unless there were but one penalty, which was inflicted in all cases of whatever nature? Not

[1] Westlake, Chapters on the Principles of International Law, pp. 2–3.

[2] Deut. xxi. 15 ff. deals with some disposition in the owner's lifetime — thus not covering cases of strict intestacy — and presupposes law permitting such dispositions. The portion given by Jacob to Joseph, and not to Reuben, is an interesting case that would fall within the letter — though perhaps not the spirit — of this law. That and other passages in Genesis prove a power of disposition analogous to a testamentary power.

only so; yet another argument is available. Some of his "words" deal with matters that, from the nature of the case, cannot possibly fall within the jurisdiction of any human tribunal. "Thou shalt not covet" is an instance. Covetousness is a purely mental affection; and it must be obvious that no man can be conscious of the mental condition of another, unless and until that other gives expression to it by some overt act. "Thou shalt not covet" may be enforced by God or by a man's own conscience, but by no other power on earth.

4. There is no sufficient reason for saying that דבר meant any type of Hebrew law at all, or indeed could be used as signifying "law," except in so far as all laws consist of words. When I investigated its usage, I was unable to satisfy myself that this was the case. On the other hand, I found that, in some of the passages on which Dr. Briggs would probably rely, it had a technical covenant meaning, expressing terms on which God and Israel entered into a covenant.[1] The fact that these terms were also Divine commands has helped to mislead our lexicographer.

5. There is no evidence whatever for most of the statements made by Dr. Briggs, which are, nevertheless, put forward with the utmost confidence. Dr. Orr has recently dwelt on the extraordinary dogmatism of the critics.[2] Here it is only necessary to point to the entire absence of evidence for the following assertions, all of which are made or implied in the sentences quoted: (1) All Hebrew "Laws" once conformed to a single "type." (2) The name of that type was "Word." (3) The "Word" was in the second person singular, etc. (4) All additions that do not conform to this dictum are redactional. (5) All early Hebrew laws were

[1] Studies in Biblical Law, p. 64.

[2] The Problem of the Old Testament, pp. 507–508.

spoken by God directly or immediately (mediately?). (6). This is the origin of the term "Word" as applied to the message of the prophets or the sentences of Hebrew wise men.

It would be easy to deal with all the other relevant statements in Dr. Briggs's appendix on Types of Hebrew Law in similar fashion. But it is obviously unnecessary. Sufficient light has been thrown on his methods to make clear what value should be attached to such unsupported statements as to the evidence of language.

APPENDIX.

The following table includes the bulk of the words and phrases relied on by Dr. Driver, and shows how a few simple and obvious considerations account for them:

I. (*a*) Words and phrases natural to speeches, as opposed to narrative: Nos. 15, "LORD, thy (our, your) God" (the emphasis on the relationship expressed being most natural in a speech); 16, "The LORD, the God of thy (our, your, their) fathers"; 50, "The priests, the Levites" (to bulk of the populace); 59, "Which thine eyes have seen"; 60, "Thy (your) eyes are those that have seen"; 66, "Hear, O Israel."

(*b*) Words and phrases that were probably chosen wholly or in part on account of the oratorical rhythm or euphony. (It is impossible for any modern writer to feel sure of this, but on p. lxxxvii Dr. Driver himself recognizes this as the ground for the selection of alternative forms of words): Nos. 19, אֵיכָה (a form of the Hebrew word for "how?"); 27, "The stranger, the fatherless, and the widow" (the use of these words was of course necessitated by the sense, but probably the *phrase* commended itself by its rhythm); 30, "Thy corn, and thy new wine, and thine oil" (a similar remark applies); 41, "continually" (Hebrew, "all the days"); 55, "the work of the hands"; 58, קֶרֶב "midst"; 64, "that to which thou puttest thine (ye put your) hand"; 69, מתוך האיש, "out of the midst of the fire" (compare No. 58).

II. Covenant words and phrases: Nos. 7*a*, "a people of special possession"; 8, "covenant"; 13, "to swear" (references to the oaths contained in former covenants); and some of the words or phrases in No. 37, "statutes and judgments and testimonies," etc. (Studies in Biblical Law, pp. 52, 59–64.)

III. (*a*) Law-book words and phrases:—the other words and phrases in No. 37, e.g. "judgment"; 9, "Which I am commanding thee this day"; 57, "therefore I command thee" (this might almost equally well be put under (*e*)); 44, "thou (he) canst not" (= it shall not be lawful for thee to).

(*b*) Words and phrases connected with laws as to the religious capital: Nos. 20, "To eat before the LORD" (i.e. at the temple); 63, "to make His Name dwell there" (cf. No. 23).

(*c*) Laws for national purity: No. 24, "so thou shalt exterminate the evil from thy midst."

(*d*) The duty of intense fidelity to God: Nos. 1 (*a*) "to love" God; 2, "other gods" (not to go after, etc.); 11, "take heed to thyself (yourselves), lest"; 14, "to hearken to His voice"; 28, "to cleave to" God (Deut. always in a group with words like "to hearken to His voice"); 31, "to walk in the LORD's ways"; 45, the duty of fearing God inculcated; 48, "to do that which is right in the eyes of the LORD"; 49, "to do that which is evil in the eyes of the LORD"; 51, "with all thy (your) heart and with all thy (your) soul"; 53, "to turn neither to the right hand nor to the left," used metaphorically; 62, the caution "not to forget"; 68*a*, "to observe to do," 68*b*, "to observe and do."

(*e*) Exhortations and inducements to obedience: Nos. 3, "to be long," or "to prolong" of days (the Deut. promise upon obedience); 25, "in order that the LORD may bless thee"; 36, "and it be sin in thee"; 42, "that it may be well for thee"; 67, "And . . . shall hear and fear" (of the deterrent effects of punishment).

(*f*) Historical reminiscences (often containing an appeal to obedience): Nos. 5, "house of bondage"; 12, "A mighty hand and a stretched out arm"; 33, "And remember that thou wast a bondman in the land of Egypt."

IV. References to the acquisition of Canaan: Nos. 4, "which the LORD thy (our, etc.) God is giving thee (us, etc.)," attached mostly to "the land," sometimes to "the ground," "the gates," "the cities," etc.; 6, "thy (your) gates"; 10, "to cause others to possess, i.e. to dispossess (the LORD, the Canaanites before Israel)"; 22, "the land whither thou goest in to possess it," "the land whither thou passest (ye pass) over (Jordan) to possess it"; 38, "the good land" of Canaan; 46, "to possess" (as in Nos. 4 and 22).

V. Miscellaneous: There are also some phrases in this list that do not fall under any of the above headings, and yet are obviously in place in Deuteronomy; such as, Nos. 1 (*b*), God's love of Israel and 23, God's choice of Israel (both topics on which it would be

natural for Moses to dilate in speeches of this nature); 47, "all Israel"; 32, "Who shall be in those days" (almost inevitable in a book designed to mold the future); 34, "thine eye shall not pity him" (intended to work on public opinion); 35, "be (ye) courageous and strong" (Dr. Driver says: "The expression may seem to be an ordinary one; but it occurs besides only in 1 Ch. xxii 13, xxviii 20, 2 Ch. xxxii 7"; but his own references to Deuteronomy are xxxi. 6, 7, 23 and iii. 28—all in connection with Joshua's appointment. What could be more natural than the use of such a phrase by Moses in such a connection, and only in that connection? He also refers to five passages in Joshua which he regards as Deuteronomic. Of these no fewer than four deal with Joshua); 39, "Which thou (ye) knowest (*or* knewest) not"; 29, "As the LORD hath spoken."

XVIII

THE ALTAR OF JOSHUA XXII

[From the *Bibliotheca Sacra*, October, 1911.]

One or two reviewers of "Essays in Pentateuchal Criticism" have raised a question as to Joshua xxii. Nobody has been found to suggest that Wellhausen and his followers are capable of discriminating between a house and a mound, but the application of the distinction between lay altars and horned altars to this chapter has been the cause of some trouble, and I am satisfied that I have failed to express my reasoning with sufficient clearness. It is well, therefore, to return to the point; and in order to deal with it the more satisfactorily, I propose to begin by quoting the ablest presentation of the difficulty that I have seen. It is from the pen of Professor J. Oscar Boyd, and will be found on page 489 of the *Princeton Theological Review* for July, 1910. He writes:—

". . . . For instance, what about the altar of Joshua xxii.? All that Wiener says about it (p. 198), is that it was because this was a 'horned altar' that it awoke the resentment of the cis-Jordanic tribes. Yet a reading of that chapter seems to place the emphasis, not on what sort of an altar it was, but on the fact that any altar at all was erected for sacrificial purposes other than that at Shiloh. The incensed tribes are pacified when they learn that the altar is not intended for sacrifice."

Another reviewer went further and suggested that I was quite arbitrary in declaring that this altar was a horned altar. How could I know?

Accordingly I shall deal with this point first. In verse 28 we read the words "Behold the *pattern* of the altar," etc. Now the ordinary lay altar could have no fixed pattern, because it was made of earth or unhewn stones, and the stones

could not be made to conform to any fixed pattern without being wrought (Ex. xx. 24–26). If we turn from the law to the historical instances of lay altars, we find this truth illustrated. A lay altar may consist of a single large stone (as in the case of the altar used by Saul after the battle of Michmash), or of a dozen stones (as in the case of Elijah on Carmel), or of a rock (as in the instance of Manoah's altar), or of earth. The nature of the materials thus makes it impossible that any particular pattern should characterize them, just as it makes it impossible that these lay altars could have horns. A stone altar could have horns only if the stone were dressed, and the law provides that "thou shalt *not* build it of hewn stones; for if thou lift up thy tool upon it, thou hast polluted it." Thus no doubt is possible as to the nature of the object that evoked the anger of the cis-Jordanic tribes; and there is nothing arbitrary about my statement, though it would have been clearer if made in an expanded form.

But then how about Professor Boyd's objection? Is he not right in saying that the "reading of that chapter seems to place the emphasis, not on what sort of an altar it was, but on the fact that any altar at all was erected for sacrificial purposes"? I think the answer to that question is "Yes and no." If he will forgive my saying so, I believe that our difficulty comes merely from the fact that we have to read this chapter without the background of intimate knowledge of the practice and circumstances of the epoch which the narrator naturally postulates. The result is that expressions which to contemporaries could have had but one meaning appear to us most naturally to designate something entirely different, and it is only when we have succeeded in recapturing something of the contemporary point of view that we begin to see what was originally intended.

Let me digress for a moment to offer a modern illustration of the whole Wellhausen confusion as to altars and sacrifice. A Christian of our time may without the slightest difficulty or inconsistency engage in no fewer than three different kinds of prayer within the course of a few hours. He may attend a public service in his church or chapel, and so engage in public prayer. He may offer up grace at a meal or have household prayers, and so engage in domestic prayer. He may offer up his supplications to the Deity alone, and so engage in private prayer. It would of course be easy to prolong the enumeration of possible varieties, but these are sufficient for my purpose. No Christian to-day who is accustomed to this system would in reading current literature have the slightest difficulty in understanding references to any or all of these three kinds of prayer or be in any danger of confusing them. But suppose that the professorate of some other non-Christian planet were confronted with a Christian literature that contained numerous regulations relating to public prayer, and occasional incidental references to domestic and private prayer, dire confusion might easily ensue. That is what has happened in the case of the Wellhausen discussion.

Returning now to apply this to ancient Israel, we must first picture to ourselves the lay altar and then contrast it with the horned altar.[1] In an article that I am contributing to a forthcoming Bible Dictionary I am exhibiting in juxtaposition a picture of a cairn of stones (used as an altar) and a restoration of the altar of burnt-offering, and I hope that these illustrations will make it impossible for any reader of that work to confuse the two. Here I write without illustrations, but I feel confident that my readers must all have seen large stones, rocks, and mounds, and also pictures of the altar of burnt-offering, and if they will but recall these things to their

minds they need have no great difficulty in deciding as to Joshua xxii.

Now, first of all, we read (ver. 10) that the trans-Jordanic tribes "built there an altar by Jordan, a great altar to see to." I submit that to a contemporary that would only mean an altar of the horned type. Why? Well, first, lay altars were at that time mostly used for the nonce only. You rolled a stone or put together a mound, used it on one occasion, and as likely as not abandoned it a few hours after. But even if you erected your altar for more or less permanent use it was for your household or the village or the clan that you erected the altar. Now an altar that was solemnly erected by two and a half tribes was obviously at least as different from the ordinary lay altar as a church service is from domestic prayer. Assuming (as the cis-Jordanic Israelites naturally did) that it was intended for sacrifice, the great majority of the trans-Jordanic tribesmen could only use it by making pilgrimages. But as I have pointed out the pilgrimages of the Pentateuch are to be made to the House of the Lord. No contemporary could possibly have supposed that the distances or the circumstances of the age would have permitted the majority of the trans-Jordanic tribesmen to use this otherwise than as a pilgrimage center, if the altar was sacrificial. Secondly, the building of an ordinary lay altar could not have been described in such terms. A mere stone or cairn would not have been "a great altar to see to," nor would its erection have been described solemnly as the work of two and a half tribes. Thirdly, if this had been an ordinary lay altar such as any Israelite could and did erect at any moment, contemporaries would never have reported it, just as we do not report domestic prayer in our newspapers, but lay great stress on the opening of a new cathedral.

The course of the subsequent discussion by the delegation naturally confirms this. The concession made to the possible reasons of the trans-Jordanic tribes for building what was supposed to be an altar of pilgrimage is contained in verse 19: "Howbeit, if the land of our possession be unclean," etc. Write out this reasoning at length and it is as follows: "Our land is clean because God's Dwelling (the Tabernacle with the great altar of burnt-offering) is among us. But you live in a territory that is geographically divided from ours by the Jordan, and you may therefore have thought with some reason that your land is unclean. This you have tried to remedy by erecting a separate sanctuary; but such a remedy is rebellion. Your right course is not to infringe the principle of the single pilgrimage sanctuary, but to move into our territory. And why is a second pilgrimage sanctuary so objectionable? Because it leads so easily to the worship of false gods. Is the iniquity of Peor too little for us?" etc. (ver. 17). The reference is to Numbers xxv. 2 f., "for they called the people unto the sacrifices of their gods; and the people did eat, and bowed down to their gods. And Israel joined himself unto Baal-peor." There is throughout this chapter no reference to ordinary lay altars. The objection is to a rival horned altar which should form a center of pilgrimage to the trans-Jordanic tribes and ultimately a center of apostasy.

Once all this is firmly grasped, the other expressions of the chapter can be interpreted quite naturally in the light of the knowledge of contemporary circumstances that we have so acquired, and all difficulty disappears. The key to the whole thing is the visualizing of the two types of altars. Once that is effected, confusion becomes impossible and a context referring to one type will never be understood of the other.

XIX

THE "PRIESTS" OF EXODUS XIX

[From the *Bibliotheca Sacra*, April, 1910.]

The mention of priests in Exodus xix. 22, 24, has hitherto constituted a very difficult problem, but material for its solution has recently been published. The larger Cambridge Septuagint records a Hexaplar note on verse 22 according to which Aquila read οἱ πρεσβύτεροι for οἱ ἱερεῖς, i.e. הזקנים, "the elders," for הכהנים, "the priests," — a difference of only two letters.[1] That this represents a genuine Hebrew variant, and not an attempt to interpret the reading of the Massoretic text, is obvious both from Aquila's known habits and also from the fact that the rabbinical theory assigns a pre-Levitical priesthood to the first-born — i.e. to persons whom no interpreter could call "elders." No note has been preserved as to Aquila's reading in verse 24, but we may reasonably conjecture that there too he had "elders." That this reading is in fact correct is proved by the part played by the elders as the heads and representatives of the people earlier in the chapter. It is easy to see that if the word became slightly illegible the expressions "come near" and "sanctify themselves" in verse 22 might easily suggest priests to the mind of a scribe.

[1] This reading has now been adopted by Troelstra (De Naam Gods, p. 17).

XX

PRIESTS AND LEVITES: THE FOURTH CHAPTER OF WELLHAUSEN'S PROLEGOMENA

[From the *Bibliotheca Sacra* for July, 1910.]

"For the position of the Levites is the Achilles heel of the Priestly Code."—WELLHAUSEN.

FOR the Wellhausen reconstruction of the history of Israel our present subject is second in importance only to "Sanctuaries." The latter topic was disposed of in the Bibliotheca Sacra for October, 1909,[1] and of necessity much of what is said concerning the priesthood was incidentally treated, for it is not possible to consider the places of sacrifice without some reference to the persons who officiated at them. Yet much remains, and accordingly it is proposed to devote this article to a correction of the Graf-Wellhausen hypothesis respecting the priesthood.

Independent investigation of the material phenomena has led me to the conclusion that the conservatives and the critics are alike at fault. Two errors are common to both equally. Neither set of students have seriously attempted to apply textual criticism, and both have assumed that the traditional views are necessarily the only explanations possible. Yet the author or authors of the Pentateuchal documents are entitled to the same measure of justice as all other authors. It is not too much to ask that some trouble should be given to the task of

[1] This article is reprinted as Chapter VI. of Essays in Pentateuchal Criticism. (Oberlin: Bibliotheca Sacra Company; London: Elliot Stock.)

ascertaining what they actually wrote; and, further, that in the interpretation of their writings the plain and obvious meaning should be preferred to the views of any subsequent writer whomsoever. In addition I am of the opinion that the conservatives and the critics have made one great mistake each. The conservatives have assumed that all the statements contained in the Bible must necessarily be of equal value historically. No doubt they have been assisted in this by the departure from the order of the Jewish canon, which does not place Chronicles, Ezra, and Nehemiah in the same category with Judges, Samuel, and Kings. These latter books belong to the series of "earlier prophets" while the former are only hagiography. This mistake has been avoided by most of the critics, who, however, have more than compensated for this by adopting an impossible documentary theory which has placed sound history out of their reach. A mediating school have combined both positions. To save the history of the Chronicler they have sacrificed the history of Moses, and have consequently failed to do any good to either in spite of many shrewd observations. The present article is accordingly written on the basis of a frank acceptance of four main principles, which will find their justification as the inquiry proceeds. These are: (1) the Mosaic authenticity of all the Pentateuchal legislation, (2) subject to the modifications introduced by a scientific textual criticism that refuses to go a single step beyond the evidence unnecessarily, but is willing to apply to the documents the textual principles that are recognized as valid in the case of all other books that depend on a MS. tradition; (3) the interpretation of the statements contained in the original authorities in their plain and natural sense as the palmary guides to the meaning of those authorities, and the application of the ordinary canons of legal construction to the laws to be

construed; and (4) the rejection of all statements in the Hagiography that conflict with the Law and the Prophets. The inquiry naturally falls into sections. It is convenient to begin with the data of P.

PRIESTS AND LEVITES IN THE PRIESTLY CODE

As Wellhausen claims[1] that the position of the Levites is the Achilles heel of the Priestly Code, I proceed at once to the consideration of this topic. Apart from a clause in Exodus xxxviii. 21 (which is lacking in one of the old Latin copies) and the provisions of the land laws in Leviticus xxv., the whole of P's data as to Levites (except of course some genealogies) are contained in the book of Numbers.

What does the book of Numbers tell us of the duties of the tribe of Levi? It may be well to quote the first brief summary:—

"And do thou appoint the Levites over the dwelling of the testimony, and over all its furniture, and over all that belongeth to it: *they* shall carry the dwelling, and all its furniture, and *they* shall serve it, and round about the dwelling shall they camp. And when the dwelling setteth forward, the Levites shall take it down; and when the dwelling is to be pitched, the Levites shall set it up: and the stranger that cometh nigh shall die. . . . And the Levites shall pitch round about the dwelling of the testimony . . . . and the Levites shall keep the charge of the dwelling of the testimony" (Num. i. 50–53).

Thus the chief functions are to take down, set up, and transport the dwelling, and to keep its charge.

The view of the duties of the Levites here set forth is amplified but never altered in the subsequent chapters. Indeed, they furnish the best commentary on the meaning of this passage. In iii. 6–10 we hear that the Levites are to serve Aaron.

[1] Prolegomena, p. 167. The references are to the English translation throughout.

They are to keep his charge and the charge of all the congregation before the tent of meeting. What is meant by these words is not immediately obvious. In the Massoretic text they are explained by the phrase "to serve the service of the dwelling" (ver. 7), but these words are unknown to the Vulgate. The next verse, however, gives more light. They are to keep the vessels of the tent of meeting. It appears from xviii. 3 that Levites approaching these vessels when in their normal position would suffer death. Accordingly we must infer that the keeping that is meant by our text is either a keeping on the march or else the encamping round the Tabernacle. The Massoretic text of iii. 8 then adds "and the charge of the children of Israel to serve the service of the dwelling"; but again the words are missing from the Vulgate, and the readings recorded in the larger Cambridge Septuagint also suggest that the Massoretic text is heavily glossed. The ordinary Septuagintal reading here is not "to serve," etc., but "according to all the service," etc. The whole phrase is, however, omitted by d. Apparently, therefore, the Levites are to act as keepers. What does this mean? The census of the Levites (ver. 11 ff.) gives a great deal of valuable information as to their functions. Taking the Massoretic text, we read: "And the charge of the children of Gershon in the tent of meeting shall be the dwelling and the tent, the covering thereof," etc. (ver. 25 f.). Now this is phraseology which if authentic lends itself very easily to misconception. The Hebrew here rendered "in" does not necessarily mean "in": and if we have before us the original text it cannot possibly mean "in." The Levites were not to go into the tent at all. To make the meaning plain we must refer to another passage. In chapter iv. the Massoretic text has "this is the service of the sons of Kohath *in* the tent of meeting" (ver. 4). Then follows

a description of how Aaron and his sons are to come and dismantle the tent when the camp sets forward, and pack certain articles. When they have finished, the sons of Kohath "shall come to bear, and shall not touch the sanctuary, lest they die: these are the burden [variant reading, "burdens"] of the sons of Kohath *in* the tent of meeting" (ver. 15). Here attention must be drawn to the peculiarity of the English version. The English word "in" cannot be used in this sense. The carriage of portions of a dismantled tent cannot be described in English idiom as service *in* that tent. Therefore we must be on our guard when we read that the Levites were to do service *in* the tent of meeting. They were to serve in connection with it, but not in it. "The charge of the children of Gershon in the tent of meeting" was not something that was to be done in the tent. On the contrary, they were to carry the specified articles. The charge and the service intended were a charge and service of porterage, and little more (see iv. 21–28). It is perhaps unnecessary to labor the point much further. The directions in chapters iii. and iv. are directions for porterage, and nothing else.[1] The Massoretic text may have suffered somewhat. The Versions certainly suggest that it contains a good many phrases that have been added by glossators: it is certain that these laws were long copied by men who had a very different idea of the position and duties of the Levites; but when the matter is carefully looked into, it will be found at each point that we are concerned with directions for porterage by men who would be liable to death if they touched the articles named when the tent was standing in its normal position. From time

[1] In Numbers viii. 22 the R.V. renders "went in." The Hebrew need not mean more than "came."

to time we meet with phrases the meaning of which is not clear at first sight, but when the context is examined we are always brought back to the fact that we have before us porterage instructions and little else. This is confirmed by vii. 5 ff. Here wagons are taken, and again we meet with the phrase "to serve the service of the tent of meeting." Two wagons were given to the Gershonites according to their service, and four to the Merarites according to theirs. "But unto the sons of Kohath he gave none: because the service of the sanctuary belonged unto them: they bare it upon their shoulders." I repeat, the only service contemplated is a service of porterage.

In viii. 26 a distinction is drawn between the keeping of charge and the doing of service. "And he shall minister with his brethren in the tent of meeting to keep the charge: but he shall not do service." After what has been said, it is evident that "in the tent" cannot be taken in the sense required by English usage. The keeping of the charge must apparently be some sort of service short of actual carriage — perhaps responsibility for the transport of the vessels, etc., but possibly the mere camping round the tent.

The same tale is told by Numbers xviii. The Levites are to serve Aaron. They are to keep "thy charge, and the charge of all the tent: only they shall not come nigh unto the vessels of the sanctuary and unto the altar" (ver. 3). The following verse repeats that they are to keep the charge of the tent of meeting for all the service of the tent; but Aaron and his sons are to keep the charge of the sanctuary and the charge of the altar (ver. 5). Again in verse 6 we read that the Levites are to do the service of the tent of meeting. Once more, then, it appears that the charge and the service are intimately connected, and constitute the whole function of the

Levites. What the service is we know clearly: the "charge" appears to bear a kindred meaning. Certainly it cannot mean anything like cleaning the vessels that they were not even to approach.

The only other passage that is material is xvi. 9 f. Here again the duty of the Levites is to do the service of the dwelling of the LORD: but this is followed by a phrase that is textually doubtful — "and to stand before the congregation [LXX "tent"] to serve them [Vulg. "him"]." The next verse shows that they are excluded from the priesthood of Aaron.[1]

Nowhere is there any hint of functions that could have been discharged by the Levites after the period of wanderings had ceased.

Such are the positive data of P with regard to the functions of the Levites. To appreciate the significance of those data we must also test them by other standards. It is held that P stands between Ezekiel and the Chronicler. The latter especially is supposed to represent the working of the completed Law. Therefore we must consider how far the views of these two writers correspond with the contents of P. Ezekiel states in a passage that will have to be considered more fully hereafter (xliv. 9–14) that the Levites are to perform certain duties. The state of the text makes it impossible to be quite certain what exactly the first of these duties is, but apparently they are to be something in the nature of gate-keepers. Then

[1] A small discrepancy in the Massoretic text should be noticed. According to Numbers iv. the age of service was from thirty to fifty years old, but in Numbers viii. twenty-five years is given as the commencing age. The LXX does not confirm the Massoretic text in Numbers iv., but may have undergone alteration. I think, however, that it would be unwise to place much reliance on the number 25 occurring in only one passage. It might easily be due to later scribes, who certainly understood these laws in a sense quite different from that originally intended.

he continues: "*They* shall slay the burnt-offering and the sacrifice for the people, and *they* shall stand before them to minister to them." Now this is precisely what they are *not* to do in P. It is clear from the opening chapters of Leviticus that the statutory individual sacrifices were to be slain by the sacrificants themselves, not by the Levites. There can therefore be no question of any such action being in accordance with the Law. Then the prophet continues: "and I will make them keepers of the charge of the house, for all its service," etc. (ver. 14). The resemblance to the language of P is not more obvious than the difference in the sense. There is here a pouring of new wine into old bottles. The service contemplated could not possibly be the carrying about of sections of the walls. The "charge" is not explained by this verse, but the prophet's meaning appears pretty clearly from verses 7 f. We learn that in the temple foreigners had been brought in "to be in my sanctuary, to profane it, when ye brought near my bread, fat and blood. . . . .and ye set them to keep my charge in my sanctuary." That at least seems to represent the meaning of the original text — though it differs slightly from the Massoretic readings. In that case, therefore, foreigners had been admitted to places into which (if P refers to the temple, as the critics allege) no Levite could have been allowed to penetrate on pain of death.

The Chronicler's testimony is to the same effect. He represents the Levites as performing a number of duties, but he expressly attributes some of these to post-Mosaic ordinances. In other cases, however, he tells us that the Levites had to perform duties which either find no mention in P or else are assigned to the priests. For example, the preparation and placing of the shewbread falls to the Levites in 1 Chronicles ix. 32; xxiii. 29; 2 Chronicles xiii. 11; but not in Leviticus

xxiv. 5–8, and the same may be said of "the fine flour for a meal-offering, whether of unleavened wafers, or of that which is baked in the pan, or of that which is soaked, and for all manner of measure and size" (1 Chron. xxiii. 29). It cannot be that in the intent of P such duties were to be discharged by the Levites, for a momentary glance at the sanctuary would have meant death (Num. iv. 20). When we read that the Levites were "for the service of the house of the LORD, over the courts, and over the chambers, and over the cleansing of every holy thing" (1 Chron. xxiii. 28), we remember not merely that such duties nowhere appear in P, but that that document knows nothing of any chambers, would not have allowed the Levites to touch many of the holy things, and regarded service simply as porterage. Again, 1 Chronicles xxiii. 30 reads: "and to stand every morning to thank and praise the LORD, and likewise at even." This is quite unknown to P, and indeed the Chronicler himself elsewhere regards the musical service as instituted by David, not Moses. Once more, 1 Chronicles xxiii. 31 assigns to the Levites the task of offering burnt-offerings on certain occasions: but P expressly forbids their approaching the altar (Num. xviii. 3) on pain of death to both Levites and priests! It is unnecessary to examine the statements of Chronicles in further detail. They may sometimes represent a later interpretation of P: they certainly do not represent the plain meaning of his ordinances. Wellhausen nowhere shows his incompetence to deal with such topics as the present more clearly than when he writes "that in the temple of Solomon even heathen (Zech. xiv. 21), probably captives, were employed to do hierodulic services which, according to the law, ought to have been rendered by Levites, and which afterwards actually were so rendered" (p. 123). According to the law the performance of some of these "hier-

odulic services" by the Levites would have been visited by death, while their performance of others is not even contemplated. Hereafter we shall consider the reason that brought about the change. For the moment we are merely concerned with ascertaining the data of P and their true meaning.

Curiously enough, the critics end by recognizing something of all this, but without seeing its bearing on their case. Thus Kuenen writes: "Moreover we must not lose sight of the fact that P puts forward his ordinances about Priests and Levites in the form of a description of the Mosaic period and the organization of the cultus at that time. His Levites consequently are fully occupied with the taking down and erection of the Tent of Meeting and with the transport of all the holy vessels, and we are not surprised that we learn little or nothing of what they will have to do at a permanent sanctuary."[1] I venture to think that most people will be surprised. P's whole object being to introduce a particular organization of worship, it is odd that he should have said nothing at all about it (as we must suppose on Kuenen's theory): and it is still more odd — though Kuenen did not detect these facts — that he should have appointed death as the penalty — or should we say reward? — of doing the acts that he desired these persons to perform.

Thus, when the position of the Levites in P is fairly considered, certain points stand out at once that are extraordinarily unfavorable to the Wellhausen case.

First, the hypothesis that in P we have a projection of later conditions into the desert period breaks down under the weight of P's data.[2] The writer conceives the Levites primarily as a

[1] Kuenen, Gesammelte Abhandlungen, p. 478.

[2] Thus Wellhausen writes: "The former [i.e. the sons of Aaron] are priests of the tabernacle, the latter of the temple; but as in point of fact the only distinction to be drawn between the Mosaic

body of sacred porters. Now nobody living in any subsequent age could suppose that there was either occasion or possibility to carry about the temple. If we are really to adopt the projection theory according to which the duties of the Levites in P mirror their duties in the second Temple, we must imagine a priestly gentleman picturing to himself sections of the temple walls and bits of the roof as being carried about at odd times by Levites on their shoulders. In fact, on this view he must have conceived the temple as a sort of a toy house such as children play with, an erection that could be set up and taken down at will. The absurdity of these propositions must surely be obvious to everybody.

Secondly, the net result of such a scheme would be to create a body of Levites for use *during the period of wanderings and never thereafter.* As soon as the desert age was over, the whole tribe would find their main occupation gone. How can we conceive that any legislator deliberately sat down and invented such a scheme centuries after the epoch to which it relates, well knowing that in so far as his scheme purported to be a narrative of events it was fictitious from beginning to end, and in so far as it might be regarded as a legislation applicable to his own or any future day there was not a line in it that could conceivably be put into practice? If any theorist can be conceived as acting in this way, how are we to suppose that his work would meet with acceptance? Yet that and nothing less is what the theory demands.

Thirdly, P neither embodies the views of Ezekiel nor finds an accurate reflection in Chronicles. The views of P are quite different from those of the other two books. The facts are

and the actual central sanctuary is that between shadow and substance, so neither can any other be made between the Mosaic and the actual central priesthood" (p. 125).

such as to enable us to say definitely that P is not in line with them. It is impossible to assume that he appointed the death penalty for certain acts if performed by Levites, because he really wished the Levites to perform those acts. It is certainly true that in the Pentateuch phrases like "keeping charge" are used which in the absence of any context might very easily be held to refer to such duties as we find assigned to the Levites in Ezekiel and in Chronicles. But the author of the Pentateuch must be judged on his own statements, not on the understanding of any other writer or of later transcribers of his work, and when we look into these statements and try to make the various functions suggested fit into the phraseology we always discover some Pentateuchal precept that negatives the conclusion we might otherwise draw. The truth is that this phraseology has a history. In the Pentateuch it is used of desert services and nothing else: in the later books it is applied to permanent services as a technical term and the Pentateuchal legislation is thus read in the light of later circumstances. In a *historical* inquiry that method cannot be followed. We are bound to go behind the expressions used to the writer's original meaning.

Thus, in whatever light the matter be viewed, the theory breaks down hopelessly, and we see that we are face to face with two alternatives, and no more. Either the passages relating to the Levites are Mosaic or else they are moonshine. *Tertium non datur.* Neither the period of Joshua and the Judges, nor the Exile, nor any other conceivable date, can possibly be made to fit.[1]

[1] Similarly Baudissin is finally driven to the following admission: "The Priestly Writing will in the first instance have circulated only in priestly circles and did not become binding law for the people before the Exile. In the full sense *it never became so and could not become so; for under the forms of the Mosaic period this*

To this result our investigation enables us to append certain corollaries. We have found that P presents us with dispositions relating to a whole tribe for the desert period and making no provision for their future after the Conquest. His regulations are purely transitory. Therefore we must conclude that some other dispositions differing from these and capable of being applied when the Israelites were settled in Canaan were also given by Moses: for he certainly cannot have supposed that the practice of the wilderness could have continued for all time. Consequently we must expect to find elsewhere supplementary regulations contemplating entirely different circumstances and proceeding on other lines: and the differences will not necessarily be an argument against the Mosaic authenticity of both sets of regulations.

Secondly, we are entitled to expect that P's regulations as to the Levites will provide us with confirmation of a view to which former investigations have already led us, viz. that the numbers of the Pentateuch are largely corrupt. If these regulations are Mosaic they will be true to the circumstances of the Mosaic age, and those circumstances rule out the number 22,000. We do in fact find what we expect in Numbers iv. The Levites are so few that Aaron and his two sons can personally control them all and appoint them to their individual tasks: "Aaron and his sons shall go in, and appoint them every one to his service and to his burden" (ver. 19); "and by name ye shall appoint the instruments of the charge of their burden" (ver. 32). Six wagons drawn by twelve oxen were sufficient for the transport of everything that could not be

writing in many cases pictures conditions as they existed at no time after the settlement in Canaan" (my italics). (Geschichte des alttestamentlichen Priesterthums, p. 280; compare the same writer's article "Priests and Levites" in Hastings's larger Dictionary of the Bible.)

carried on men's shoulders (chap. vii.). Facts such as these abundantly confirm our previous observations. Nor should we be misled by the narratives that speak of "princes" of various sections of the Levites. The meaning would in some respects be more aptly given by the rendering "foremen."

Before passing away from the Levites we must note a point in P's representation to which we shall have to return hereafter. For the purposes of their service the Levites undergo a special ritual (Num. viii.), but it is not a ritual of consecration. It is only a ritual of purification.

In addition to the Levites we find in P Aaron the priest (at a later date Eleazar the priest) and the sons of Aaron the priests, but it is noteworthy that this reading does not appear to be recognized by all the authorities in any place. Owing to the system of abbreviations which obtained at the time the LXX was made and has been continued even in some Hebrew MSS. that are still extant, it was possible to read the same Hebrew phrase either as "the sons of Aaron the priest" or "the sons of Aaron the priests." In Leviticus i. the Massoretic text adopts the singular in verse 7 and the plural in verse 8, but where the Massoretic text has the plural the other authorities always attest one or more variants. Sometimes we find the singular, sometimes one of the phrases is omitted, sometimes a displacement in the order suggests the presence of a gloss. Usually it is the Old Latin that has the singular, either with or without the support of other authorities. A typical instance occurs in Leviticus i. 11. There the Massoretic text has the plural, the Septuagintal MS. m and the Vulgate omit the word altogether, while the Old Latin and a Bohairic copy read the singular. It is unnecessary to go through all the cases, but it is proper to say that in Leviticus xiii. 2, where

the Massoretic text gives us "to Aaron the priest or to one of his sons the priests," the Vulgate omits "the priests."

Thus we find, first, the high priest, most usually called "the priest," but sometimes designated by other expressions; and, secondly, "the sons of Aaron" or "the priests." To these also the expression "the priest" could be applied either to designate descent or in the ritual as meaning "the officiating priest"; but the title here has not the same force as when applied to the high priest, who was the priest *par excellence*. Similarly an Englishman speaking of "the Prince" means the Prince of Wales unless there is something in the context to show that he is referring to some other prince. This usage of the term in P becomes important when we reach the later history, since there too we find persons bearing the title "the priest" who obviously stand at the head of the hierarchy. The phrase "Aaron the high priest" is entirely unknown to P. Where the high priest's name is given, the only qualifying apposition possible in his usage is "the priest."[1]

On a survey of the evidence as to priests certain points emerge which are material to the present discussion. The position of the priests is very different to that of the Levites. If we ask why the priest is so holy, the answer appears to be that he is made so by the combination of two qualifications — the Divine choice and his consecration. The Levites, it must

[1] It will be convenient at this point to explain a little discrepancy in the Massoretic text. It is said that in some passages (e.g. Ex. xxix. 7; Lev. xxi. 10, 12) only the high priest is anointed, while in others all sons of Aaron undergo this rite. It is the case that the high priest alone is anointed in some passages. The trouble has arisen partly through a confusion between sprinkling and anointing, and partly through textual corruption. The critical case is set out on page 251 of the Oxford Hexateuch, vol. i. Of the passages that give trouble, Numbers iii. 3 was unknown to the recension of the LXX which Lagarde thought Lucianic, in Exodus xxviii. 41 the words "and thou shalt anoint them" are

be remembered, were not consecrated, only purified, and in their case P contains no Divine command enabling them to perform the duties of priests. With regard to the priestly tasks the legislation wears a twofold aspect. On the one hand it is given primarily for the wilderness and bears the stamp of the conditions of the time. On the other much of it was intended to continue after the conquest. Two features call for special notice — the inadequacy of the staff to the post-conquest conditions and the signs of date.

If we turn to Leviticus xiii. f. we shall find laws dealing with leprosy. Let us test the application of these. At the very beginning of the earlier chapter we read that a man who has certain symptoms is to be brought unto Aaron the priest or unto one of his sons. Then follow rules for inspecting and isolating the patient. Remembering that on the critical theory P assumes the capital at Jerusalem as self-evident and the priests as concentrated there, we must ask how such provisions were to work after the conquest. During the desert period nothing could have been simpler; but what was to happen when the Israelites dwelt all over Canaan from Beersheba to Dan? Nay more, how could such regulations conceivably occur to the mind of any sane man during or after the exile when the bulk of the Israelites were in Babylonia and there were important Jewish colonies in Egypt and else-

not in the Vulgate, nor are the material words of Exodus xl. 13, 15. In Leviticus vii. 35 a Septuagintal MS., the Ethiopic, Armenian, and Vulgate omit "anointing portion" before "his sons." On the other hand, Exodus xxix. 21 prescribes sprinkling, which is quite a different rite to anointing, Leviticus viii. 30 narrates the fulfilment of the command, and Leviticus x. 7 presumably refers to this. There remains only Exodus xxx. 30. In view of xxix. 7 and all the other passages, it is most probable that we have here some slight corruption that cannot be corrected from the LXX or the Vulgate. "And his sons" may easily be a gloss, and the words "and thou shalt sanctify them" may have come in from the preceding verse by dittography.

where? And if the theory is absurd when it is applied to men, what are we to say when we read of leprous garments (Lev. xiii. 47 ff.)? Was a man to make the pilgrimage from Babylonia to Jerusalem to consult a priest about a doubtful garment? And what about the leper's offerings in chapter xiv.? Could they conceivably have been intended for such circumstances? It is easy to multiply such questions. Neither the critics nor P can supply the answer.

Then we come to a passage which is expressly stated to apply to the period after the conquest (Lev. xiv. 33–53). It deals with houses that are leprous. The owner is to notify the priest, and the latter is to come and inspect the house. In certain eventualities he will then shut up the house and return on the seventh day. Clearly this is not a duty that could have been discharged for the whole country immediately after the conquest by the descendants of Aaron. It postulates the presence of priests either in or within reasonable distance of every "city." It contemplates a far larger body of priests than the descendants of Aaron could have been for some time after the conquest, and it demands purificatory rites over running water which are obviously designed to be practicable for those who might be at a distance from the religious capital.

It is not necessary to continue this examination of the laws. What has been said in the case of leprosy applies (*mutatis mutandis*) to other portions of P: and the antiquity of that document and the incompleteness of its priestly staff become evident here as elsewhere. Yet there is one point that helps to explain much of the subsequent history of the priesthood — I refer to the portion of the sacrificial ritual to be performed in the case of statutory individual sacrifices by the sacrificant himself. Few readers of Leviticus i. consider how clearly it mirrors early and simple conditions. It is true that

the LXX makes the priests, and not the sacrificant, kill the victim; but the correctness of the Massoretic text is proved by iii. 2, where the plural is impossible. Now turn to 1 Kings viii. 63, where we read of Solomon's enormous sacrifice. How could this ritual possibly be applied to such a case? It may be objected, with reason, that this sacrifice of Solomon's was entirely exceptional. Yet, while this may readily be granted, two reflections suggest themselves. With the growth of luxury the upper classes would inevitably object to slaughtering and flaying the cattle personally. Moreover, sacrifices would tend to grow in the number of victims, and the task would become impossible. It is one thing to slaughter and flay a single animal with one's own hand: it is quite another to slaughter and flay fifty or a hundred or five hundred. The ritual presupposes very simple conditions. With the growth of luxury modifications would inevitably have to be introduced.

Thus in the case of the priests, as in the case of the Levites, we see that P taken by itself is a torso, and nothing more, and that it represents the earliest age in the national history.

The portions of the Pentateuch that we have still to examine will supply the solutions of some of its problems.

PRIESTS AND LEVITES IN THE OTHER PORTIONS OF THE PENTATEUCH

The data of JE are very scanty. Perhaps the most important passage in the eyes of the critical school is Exodus iv. 14, where we read of "Aaron thy brother the Levite." It is gravely urged that this passage proves that the Levites were not a tribe, but a class of persons of priestly skill; in fact, that "Levite" here denotes profession, not ancestry. The reason advanced is that this phrase is addressed to Moses, who was necessarily of the same ancestry as his own brother and would

therefore not require to be informed of his descent. It is sought to buttress this argument by a reference to Judges xvii. 7, where we read: "And there was a youth from Bethlehem-judah, of the tribe of Judah, and he was a Levite, and he sojourned there." This youth, it is said, came of the tribe of Judah, and therefore when we are told that he was a Levite we must understand this of his profession. In point of fact, this youth "of the tribe of Judah" was a grandson of Moses, being the son of Gershom (xviii. 30). When we read in the last-cited verse "son of Gershom, son of Manasseh," in the English Versions, we must not be misled. The Hebrew has "son of M sh h" (Moses). The letter "n" was then inserted by the scribes in a suspended position to make the name "M n sh h" (Manasseh) out of reverence for the lawgiver's memory. But the true reading is "Moses," and the youth in question was therefore his grandson and a descendant of Levi. Moreover, xvii. 7 itself says as much. This Levite "sojourned" in Bethlehem. This word "sojourned" is the technical word for members of the tribe of Levi, who had no tribal lot like the secular tribes. How, then, comes it that this youth who was a Levite is described as being of the tribe of Judah? The explanation is very simple. As is well known, there were two Greek translations of the book of Judges both of which are quoted as Septuagint. Now in Field's Hexapla *ad loc.* we find two renderings of the passage which in the Massoretic text runs "from Bethlehem-judah, of the tribe of Judah." According to the one, the text should be "from Bethlehem the city of Judah"; according to the other, supported by Theodotion, it should be "from the city of Bethlehem-judah." Neither of these two confirms the Massoretic text, and neither contains a hint that Jonathan was anything but a Levite by descent. The difficulty in this case arises from slight textual

corruption, and no support can be derived from this passage for the theory of professional Levites.

If, now, we return to Exodus iv. 14, we shall see that the hypothesis is equally untenable there. The origin of the phrase leaps to the eyes. The full designation of an Israelite in the Mosaic age was "A, son of B, of the tribe of X," or else "A, son of B, the X-ite." Aaron would normally have been described as "Aaron, son of Amram, the Levite." In a speech made to Moses, however, the relationship to the latter is naturally substituted for "son of Amram"; and thus we get "Aaron, thy brother, the Levite." The designation is no more remarkable than "your brother J. S." would be in a speech made in our own day to "T. S." It is true that in such a case "your brother J." would be the more usual designation; but everybody knows, from personal experience, that there are occasions on which the former style is adopted. To assign any other meaning to the phrase is to land ourselves in a morass of absurdities. We know that before the age of Moses the Levites were a secular tribe, who, according to the blessing of Jacob, were not in particularly good repute. Immediately after the age of Moses[1] we find that the members of the tribe of Levi enjoy a sacred character, and in the blessing of Moses, which is supposed to be an early poem, Levi, the priestly body, is a tribe. To postulate by the side of the only Levites we know, the tribal Levites, an otherwise unknown professional class termed "Levites"; to suppose that the tribe then suddenly acquired a sacred character (as shown by the data of J and E, yet to be examined, and by the correct text of this passage of Judges), and that these two sets of

[1] Jonathan is described as a young man in the book of Judges. His father Gershom was born before the forty years of wandering began. The episode of his priesthood to Micah must therefore have occurred only a few years after the lawgiver's death.

Levites are entirely distinct, is to suppose a most amazing set of absurdities. Our sources tell us of but one kind of Levites — the members of the tribe of Levi — and there is not a scintilla of evidence for any other.[1]

Apart from the blessing of Moses (to be considered hereafter), the Pentateuchal passages regarded by the critics as early supply us with only one reference to the special character of Levi — Exodus xxxii. 26–29. The text is not in a satisfactory condition, but there is some question of consecration and a Divine blessing. The testimony of Deuteronomy and the difficulties of the passage suggest that the text is here incomplete.

Of the priests we learn but little in JE. As has been shown elsewhere, "elders" should be read for "priests" in Exodus xix. 22, 24.[2] The theory that Joshua was a priest has also been demonstrated to be baseless.[3] Deuteronomy x. 6 (E) tells us that "Aaron died, and Eleazar his son ministered in the priest's office in his stead." This entirely agrees with P so far as it goes. It shows us that Aaron was "the priest," and that he was succeeded by Eleazar, as in P. Some of the laws imply the existence of a priesthood, but give us no information as to its composition. The passage in the blessing of Moses (Deut. xxxiii. 8–11) is really the most valuable of all these, but it will be clearer when we have considered the evidence of D.

[1] Reference is sometimes made to the article "*the* Levite" in such passages as Exodus vi. 19. This merely shows that the textual evidence has not been examined. Thus in this verse the LXX and Vulgate read "Levi," not "the Levite." In such cases the article is due to later copyists. For the benefit of those who are not Hebraists it should be said that there is no difference in the original between Levi and Levite.

[2] *Supra*, p. 230.

[3] Essays in Pentateuchal Criticism, pp. 66–70 = Bibliotheca Sacra, July, 1908, pp. 494–497.

This last document takes up all the threads that we have had to follow, and weaves them into a consistent and intelligible whole; but, as already stated, it certainly suggests that something has fallen out from Exodus.

In order fully to appreciate the data of Deuteronomy, we must briefly recall the difficulties with which P presented us. First, we found a whole tribe of Levites, chosen by God but not consecrated, whose occupation would come to an end with the conquest, with the result that as soon as the ark and tent were located permanently at any one spot they would have no duties to perform. Then we saw a small body of consecrated priests who could not possibly discharge the functions that would devolve upon them with the conquest, and we discovered laws which could be administered only by a numerous priesthood settled all over the country. Deuteronomy also knows such laws. It too has a rite to be performed locally with priestly assistance by running water (xxi. 1–9). It too contemplates leprosy laws administered by priests (xxiv. 8). But in both cases it speaks of "the priests, the Levites."

When it is carefully examined three points emerge: (1) the original text of Deuteronomy contained provisions enlarging the rights and duties of the Levites; (2) Deuteronomy probably testifies to a lacuna in the text of the earlier books; (3) the general situation postulated is the same as that which would have been brought about by P, but there are certain apparent discrepancies which require further notice.

Perhaps the most important passage is Deuteronomy xviii. 6–8. There are various small textual differences which are unimportant from our present point of view; but there is one which changes the whole meaning of the passage. In verse 7 a, d, and m omit "the Levites," and it seems obvious that the word is in fact a gloss inserted as an explanation by

somebody who took the late view of the meaning of the Law, and therefore found the text difficult to understand. Its omission transforms the historical import of the passage, which now runs:—

> "And if a Levite come from any of thy gates out of all Israel, where he sojourneth, and come with all the desire of his soul unto the place which the LORD shall choose; then he shall minister in the name of the LORD his God, like all his brethren which stand there before the LORD. They shall have like portions to eat, beside that which cometh of the sale of his patrimony."

That is to say, a Levite fulfilling the necessary conditions could minister like all his brethren, i.e. the sons of Aaron — not, as the glossator thought, in an inferior ministry.

To this must be added Deuteronomy xxi. 5: "and according to their word shall be every contention and every blow"; and the passage in the blessing "They shall teach thy judgments to Jacob and thy law to Israel: they shall put incense in thy nostrils and whole burnt-offerings on thine altar" (xxxiii. 10). When this is read in the light of Deuteronomy xxi. 5 and xxiv. 8 (assigning to "the priests the Levites" the duty of teaching the leprosy regulations), and taken in combination with the fact that the teachings of P require for their administration a numerous and scattered priestly caste, it cannot be doubted that Deuteronomy in all these matters supplements the earlier books. The joint effect of all these passages is to confer on the Levites the power of exercising most of the duties of the sons of Aaron. It is, however, probable that in the Mosaic age one thing would be understood as self-evident which is not expressed. Priests, so far as we know, were always consecrated. In Judges we read of Micah's "filling the hand" first of his son and then of the Levite. Presumably a Levite coming under this law would have to undergo consecration as a matter of course before approaching the altar.

This view of the meaning of the Law is, as we shall see hereafter, confirmed by all the data of the earlier and later prophets. But for the hagiography, the glossators, and late Jewish tradition no other view could ever have obtained. It however leaves one seeming discrepancy, which must be considered further. There is certainly no difficulty in understanding that, in view of the altered circumstances, Deuteronomy should have modified the earlier provisions as to the Levites which had been given for the period of wandering; but trouble is made by the language of Numbers xvii. 5 (E.V. xvi. 40): "a memorial to the children of Israel that there shall not come near a stranger who is not of the seed of Aaron to burn incense before the LORD: and that he be not like Korah and like his company, as the LORD spoke to him by the hand of Moses." It seems as if the burning of incense alone were not a priestly but a high priestly prerogative. In Exodus xxx. 1–9 it is Aaron who is to burn it (cp. Lev. x.; xvi. 12 f.; Num. xvii. 11 f. (xvi. 46). Sometimes incense is used with a meal-offering, but that is different from the burning of incense by itself. In every case in P — except where persons are consumed for some unlawful use of incense — it appears that the burning is to be done by the high priest only, and then — as it would seem — as a measure of precaution against the possible results of a theophany. Indeed it seems to have prophylactic powers. The story of Korah is in agreement with this, for the "priesthood" that he sought was obviously the leadership of the congregation, not such a position as that occupied by Aaron's sons. This appears clearly from Numbers xvi. 3. In view of the language of this verse, it is not too much to say that when Korah challenged the supremacy of Aaron and Moses, the test of taking censers and burning incense before the LORD was probably suggested by the fact that this was a

high-priestly prerogative which could not be exercised by any lesser dignitary. Hence Numbers xvii. 5 cannot be quoted as conflicting with Deuteronomy, seeing that the latter book clearly recognizes "the priest" as holding an exceptional position. Deuteronomy xviii. 1–8 certainly does not place *any* Levite in the position of the high priest.

Before proceeding to consider more particularly the resemblances between P and D, it may be well to emphasize at once a characteristic of Hebrew thought and methods of expression that bears very closely on our subject. The Semites used terms of fatherhood and sonship to express all kinds of relations that would be differently expressed by a modern Western. For instance, "he was the father of such as dwell in tents" (Gen. iv. 20) would not be understood by any reader as meaning that he was in a physical sense the ancestor of all tent-dwellers. In the case of the Rechabites the founder is the "father," the members of the sect are his "sons." For this reason a Hebrew would have felt no difficulty in applying to Levites who came under the provisions of Deuteronomy xviii. 6–8 legislation that was expressed to be intended for the "sons" of Aaron. The fact that in the first instance it was so intended for those who were in fact descended from Aaron would not cause him any qualms. Hebrew usage is too elastic, and the trouble that a Western mind may feel on this subject would have been unintelligible to the tribesmen of Moses.

Once the points we have striven to make are clearly grasped, the resemblance between Deuteronomy and P becomes very marked. "The priest that standeth to minister unto the LORD thy God," in Deuteronomy xvii. 12, is no other than the successor of Aaron. The Levites are as in P — but in Deuteronomy fresh provision is made for them in view of the approaching conquest. In both they have no tribal inheritance,

yet Deuteronomy xviii. 8 speaks of his "patrimony." Two explanations have been suggested by those who wish if possible to avoid the natural inference that this is an allusion to the Levitical cities. It is said that the phrase may refer to some sacrificial dues. This overlooks the fact that the centralizing ordinances of Deuteronomy leave no room for any local priestly sacrifices, and also the obvious impossibility of a priest's selling aught that had come to him as a sacred due. It is also said that this may refer to real property. Undoubtedly it does; but then, if Deuteronomy recognizes real property in spite of the non-possession of a tribal lot, the argument against its recognition of the Levitical cities is gone. They were cities that could be owned by members of a tribe that had no inheritance like its peers.

The resemblance between P's local rites for leprosy in a house and D's local rites in the case of a man found slain has already been indicated, and it has been shown that the ultimate recognition of an extensive and scattered priesthood is necessitated by the laws of P. Both documents recognize leprosy laws locally administered by a priesthood, the Levitical carrying of the Ark, and the separation of Levi for a sacred ministry. The seeming discrepancy between the passage in Numbers that threatens death if the Levites approach the altar and the new provisions of Deuteronomy xviii. is naturally explained partly by the new enactment itself, but partly also by the probability that Levites performing priestly functions at the religious capital would first undergo consecration.

There remains one point of difference between Deuteronomy and P. The former recognizes a Levitical right of blessing which the latter assigns to Aaron and his sons. The passage relating to the priestly blessing is at present misplaced. Numbers vi. 22–27 contains the command to bless,

but in point of fact we find Aaron blessing the people at his consecration (Lev. ix. 22). As the later chapter relates the fulfilment of commands given on Mount Sinai, it would seem that Numbers vi. 22–27 must have been given at the same time — *before* the separation of Levi. What has already been said about the characteristics of Hebrew modes of expression would apply here too. The difficulty therefore vanishes. On the other hand it may be open to question whether there is not a lacuna in the text of Exodus or Numbers, giving some further account of the duties and privileges of the Levites; but this must remain doubtful. It may be that the general words in Numbers as to the duties of the Levites cover everything that is necessary. In Deuteronomy xxvii. 9, etc., we find Moses *and the priests the Levites* speaking to all Israel. Presumably they repeated what he said. If so, they may have repeated the blessing on occasions when Aaron blessed the people. But on points like this no certainty is possible. And assuredly when the discrepancies between Deuteronomy and the earlier books resolve themselves into small and doubtful minutiæ of this kind, Mosaic authenticity is not in danger.[1]

PRIESTS AND LEVITES FROM MOSES TO MALACHI

The data of the book of Joshua add nothing fresh to our information. This book, like all the other prophetical books, entirely agrees with the interpretation of the Pentateuchal laws that has just been given. Phrases like "the priests the bearers of the ark of the covenant" alternate with such expressions as "the priests, the Levites, bearers of the ark of the covenant of the LORD." In many places the text is in an

[1] It is very noteworthy that in 2 Chronicles xxx. 27 we read: "And the priests, the Levites [several MSS. and versions "*and* the Levites"] arose and blessed the people." The Levites are here conceived as uttering the priestly blessing.

uncertain condition, but there is no sign that the original MS. in any way conflicted with the view taken of the Pentateuchal laws. One phrase deserves especial notice, for its complete confirmation of what has been said. In xviii. 7 we read: "for the Levites have no portion in your midst; *for the priesthood of the Lord is his inheritance.*" Dr. Carpenter is much puzzled and assigns the verse to *a priestly redactor* of all conceivable figments! How on his principles could a *priestly* writer ascribe the priesthood to the Levites?

The only other point of interest is the fact that in their division of Joshua into sources the critics are compelled to represent J and E and P and a Deuteronomic writer as all entertaining precisely the same conception — though on critical principles they ought to be at hopeless variance — and curiously enough this conception is precisely the conception I have derived from the Pentateuch. For example, in iii. 8, Ps speaks of "the *priests* that bear the ark" — not, be it observed, the Levites. J does the same in verses 13 and 17, E in verse 14, and a Deuteronomic redactor in iv. 9 and other verses. After all, it seems simpler to suppose that the Pentateuch means what it says and was so understood until after the exile, than to indulge in such speculations as these.

The story of Jonathan the grandson of Moses is the only important contribution of the book of Judges to our present topic. "Now I know that the LORD will bless me, since I have a Levite as priest" (xvii. 13), clearly testifies to the sacred character of the tribe soon after the death of Moses. The textual question on this narrative has already been discussed: it remains only to notice that the position of the Levites as well as their character corresponds with the data of the Pentateuch. The idolatry and the separate shrine are regarded as breaches of the Law, — as of course they were. "In those

days there was no king in Israel, every man did that which was right in his own eyes." This significant comment was perhaps meant to be enforced by the narrative of the theft of Micah's image — an event that would hardly enhance the prestige of such "gods" in the minds of the readers.

The narratives of the books of Samuel and the early chapters of Kings have been much commented on by the Chronicler and the critics. As the statements of the Chronicler cannot fairly be reconciled with the older sources for this period, it will be well to leave them out of account.

The difficulties that have been found in the history of the age of Samuel are diverse in nature and due to a variety of causes. Some of them need not detain us long. It is claimed that sacrifice is offered without the intervention of a priest.[1] This is explained by the distinction between customary lay offerings and statutory individual offerings — a distinction that, as I have shown elsewhere,[2] accounts for many features that give difficulty. Another point that need not detain us long is the blessing of the people by the kings (e.g. 2 Sam. vi. 18). The critics choose to claim that they used the priestly benediction. There is not the least evidence of this. Indeed in this passage we are told that David blessed the people in the name of the LORD of hosts. If this is to be taken in its most literal sense, he cannot have employed the priestly benediction, for the expression "LORD of hosts" does not occur in

[1] See, e.g., Wellhausen, Prolegomena, p. 128: "Sacrifice is in two instances offered, by Gideon and Manoah; but in neither case is a priest held to be necessary. . . . Until the cultus has become in some measure centralised the priests have no *locus standi;* for when each man sacrifices for himself and his household, upon an altar which he improvises as best he can for the passing need, where is the occasion for people whose professional and essential function is that of sacrificing for others?"

[2] Essays in Pentateuchal Criticism, chapter vi. = Bibliotheca Sacra, October, 1909.

it. But, putting this aside, can anything be more absurd than this theory? Blessing was a common and graceful act among the ancient Hebrews. We meet with many instances. Perhaps the most striking is Jacob's "in thee shall Israel bless," etc., for this passage demonstrates the prevalence of the custom. In this very chapter we read, two verses later, that David returned to bless his household (vi. 20). Would anybody assume that he used the priestly blessing? And if it be admitted that there is no reason to suppose that this is the priestly blessing, why should we make such an assumption when we read of David's blessing his people? What can be more natural or indeed more universal than that a king should bless his people? There is certainly nothing here to point to any usurpation of priestly functions. The same holds good with even more force of Solomon, since in his case we have the words of a blessing in 1 Kings viii. 56 ff.

More important is the argument based on three passages that appear to show that non-Levitical persons were priests. In each case the textual evidence proves that there is corruption. The first of these is 2 Samuel viii. 18. The Massoretic text has "and the sons of David were כהנים, i.e. priests." It is curious, if this is the case, that the statement does not follow 17a, where we are told that Zadok and Abiathar were priests; but that is not the only suspicious circumstance. The Chronicler (1 Chron. xviii. 17) paraphrases "first to the hand of the king," which looks as if they held some office. Now this is confirmed by the LXX, which here reads *aularchs* — a word we might suitably render "chamberlains." It has been suggested that this might be a paraphrase, but another passage proves that it represents a genuine Hebrew variant. In 1 Kings ii. some of our Septuagintal authorities have preserved a list of officers that is not found in the Hebrew.

It appears that at that time Benaiah son of Jehoiada was *ἐπὶ τῆς αὐλαρχίας καὶ ἐπὶ τοῦ πλινθείου*, "over the aularchy and over the brickmaking" (LXX, 3 Kingdoms ii. 46h). It is not possible to claim that he was "over the priesthood and over the brickmaking," and it therefore appears that the Septuagintal *aularchs* does in fact represent some secular Hebrew office. Further, the notes on 2 Samuel viii. 18 in Field's Hexapla prove corruption. According to one of these, Symmachus[1] read *σχολάζοντες*, which means "at leisure." This makes no sense, but it cannot possibly be a rendering of כהנים, and proves that this translator knew a different text. A footnote quotes a scholiast as saying that Theodotion had *τὴν κατάστασιν ἔχοντες τῆς βασιλικῆς οἰκίας*, while in Chronicles he rendered *δομέστικοι*. Both these point to a Hebrew word meaning "chamberlains," and suggest that our present text of Chronicles is a gloss to the rare earlier word which was used by the Chronicler as well as in Samuel. For these reasons it appears certain that the Hebrew is corrupt. Possibly, as Hitzig and Cheyne have conjectured,[2] we should read סכנים for כהנים, comparing, for this use of the word, Isaiah xxii. 15.

The next passage is 2 Samuel xx. 26: "and also Ira the Jairite was priest to David." That we are dealing in this case with a genuine priest is proved by the phrase "and also" attaching to the mention of the priests in the preceding verse. The Syriac, however, instead of העירי, "the Jairite," has היתרי, "the Jattirite"; and this is confirmed by the Lucianic LXX, which had the same letters, and by xxiii. 38. Jattir was a priestly city (Josh. xxi. 14), so that this notice is not remarkable.

[1] According to another note, Symmachus read "priests," but if this latter note is correct, it only means that *σχολάζοντες* was the reading of some other translator.

[2] See the Expositor (5th Series), vol. ix. (1899) pp. 453–457.

Lastly, we come to 1 Kings iv. 5. The Massoretic text tells us that זבוד, "Zabud" (there is a variant זכור, "Zachur") son of Nathan was כהן רעה המלך, "priest, friend of the king." Origen did not find the word "priest" as part of the Septuagintal text, and added it under an asterisk. Thus the question arises, whether כהן is original, or has resulted from dittography of the preceding word נתן, *Nathan*. Here again the Septuagintal list of 1 Kings ii. throws light on the subject, for we learn from it that the son of Nathan was, at the time to which the list refers, the occupant of another secular office — that of counselor (LXX, 3 Kingdoms ii. 46h; cp. Lucian's text of ii. 34). This had been Ahitophel's title (2 Sam. xv. 12, etc.); while Hushai the Archite, whose functions appear to have been similar, bore the official style of "king's friend" (see especially 1 Chron. xxvii. 33 f., apparently taken from an old source). There can therefore be no doubt that there in fact existed a secular office of "king's friend," and that the LXX is right in making this the office filled by Nathan's son, either before or after his occupancy of the kindred secular office of "king's counselor." Hence no support can be derived from these passages for a legitimate non-Levitical priesthood.

Then it is urged that there were dealings with the Ark that are not in accordance with the Law. When the curtain first rises on the age of Samuel we find the Ark exactly where we should expect it to be, viz. at Shiloh. That was where it was located in Joshua xviii. 1, and that was where, in the absence of any particular reason to the contrary, it would presumably remain. We find Eli and his sons in charge of it. The book of Samuel does not provide us with a genealogy of Eli, but from 1 Samuel ii. 27 we learn that he was descended from Aaron. This part of the narrative is therefore in order (apart from the question of Samuel to be considered hereafter). It

appears that the Ark did not usually go to war with the forces of Israel, for it was not till after a defeat that it was removed from Shiloh to take its part in a campaign against the Philistines. It was then taken to the camp under the charge of two sons of Eli. So far everything is in accordance with the Law. It is sometimes said that non-Aaronic Levites ought to have carried the Ark, but this will not bear investigation. As we have seen, these arrangements were made for the desert period. Even then there is no reason to suppose that priests could not bear the Ark. On the contrary, they were holier than Levites and were allowed to do things that were not permitted to the latter. Thus they had to cover up the Ark and make it ready for its journey before the Levites were allowed to come near it. Probably the only reason why the porterage of the Ark was assigned to Levites was the smallness of the number of priests available. At the time the arrangements were made only Aaron and his two sons appear to have been of an age for any service, and Aaron himself was clearly too old to execute this duty. Moreover it appears from the narrative that his two sons had a large amount of other work to perform. Hence probably the choice of Levites; but, as this is a case of the work being done by less holy persons, it is clear that there would be nothing to prevent descendants of Aaron from carrying the Ark; and of course, if the view taken above of the provisions of Deuteronomy be correct, the two classes had almost been fused into one.

A question, however, arises on the part played by Samuel in these opening chapters of the first book called by his name. Vowed by his mother to God, he is brought to Shiloh to serve Eli. Wellhausen goes so far as to write: "Samuel, who is not a member of the family, is nevertheless adopted as a priest" (p. 130; cf. p. 136). The details of the narrative

that are inconvenient from the Wellhausen point of view are ignored. In point of fact he was brought soon after he had been weaned. He may have been three or even as much as four years old at the time.[1] It would be interesting to know what priestly functions the boy can be supposed to have discharged at this mature age. Of course he grew older, but the little cloak annually brought by his mother (ii. 19) shows clearly that the whole narrative relates to his boyhood. When we read (ii. 18) that he ministered before the LORD, being a child, girded with a linen ephod, we call to mind an attractive picture. But that does not exempt us from the duty of applying a little common sense to the narrative. It stands to reason that the child can have performed no priestly duties whatever, though doubtless he ran errands and performed odd jobs for Eli as a kind of page. Every reader must be familiar with pages and office boys, but nobody in our own day hearing that a boy served in the consulting-room of a physician would assume that he performed a doctor's services. The only positive information we have as to Samuel's functions is to the effect that he slept in some part of the building (called a temple) where the Ark was, and opened the doors in the morning (iii. 15). To say, as Wellhausen does, that he sleeps "beside the ark" (p. 131), or "in the inner portion of the temple beside the ark of the covenant" (p. 130), is to read into the narrative something that simply is not there. What we are told is that he slept in the temple in which the Ark was. Unlike the wilderness tent, this had door-valves which had to be opened from inside. As the structure of this house of the LORD was entirely different from an erection of planks and curtains, it seems probable that there was some accommodation within its precincts where the boy porter

[1] See Murray's Illustrated Bible Dictionary, p. 280a.

could sleep without penetrating to any place where he could not lawfully be. The later temples certainly had plenty of chambers for various purposes, and it is natural to infer that there was such a chamber or recess particularly provided for the porter to which the rays of "the lamp of God" could penetrate. Samuel may have been a Levite, as the Chronicler says, or again the vow made by the mother and the solemn surrender to God may have had the effect of consecrating him so that he could perform duties that could not be discharged by a layman; but these scanty notices do not necessarily prove anything of the sort. It is more probable that the internal arrangements of the Temple were such as to provide for the presence of a priestly servant as lay porter. The opening of doors is not a very exalted function.

When the Ark came back from the Philistines we read of various transactions that require consideration, but before turning to them I must bring out one point. So far as we know, the Ark had always been under the custody of the house of Aaron till the death of Hophni and Phineas. When David brought it up to Jerusalem it was under the charge of his two official priests Zadok and Abiathar, and from that time forward till the exile it was always under the care of the priests of Jerusalem. Abiathar was a descendant of Eli and therefore of Aaron. Hence the only period of irregularity, if there in fact was irregularity, is a period of about twenty years (1 Sam. vii. 2). It is important to emphasize this; because, putting things at the very best for the Wellhausen theory, we should have to say that twenty years of irregularity at a time of great national difficulty could overrule the consistent and unquestioned practice of all the rest of history, extending over some six or seven hundred years.

Whether there was irregularity, and if so, how much, is the question to be considered.

In 1 Samuel vi. we read that the cart bearing the Ark came to the field of Joshua of Beth-shemesh and stood there. Then comes a passage that presents difficulties. It reads "and there was there a great stone, and they split the wood of the cart, and the kine they offered as a burnt-offering to the LORD" (ver. 14). A pause should be made here to note the fact that this narrative does not explain what happened to the Ark. If the Ark was transferred to the stone, as we should expect, it seems curious that a statement to that effect does not appear before we are told of the breaking up of the cart, and of the offering of the men of Beth-shemesh. The next verse draws from Wellhausen the following comment: "After they [sc. the inhabitants of Beth-shemesh] have finished, the Levites come up (ver. 15) (in the pluperfect tense) and proceed as if nothing had happened, lift the ark from the now no longer existent cart, and set it upon the stone on which the sacrifice is already burning; — of course only in order to fulfil the law, the demands of which have been completely ignored in the original narrative" (p. 128). That the present text is impossible may be conceded at once; at the same time the difficulty of the preceding verse does not favor the hypothesis that verse 15 is a mere gloss. It is not suggested that there is any evidence for expelling this verse from the text. It *may* be a gloss, but it seems much more probable that the second half of verse 14 has accidentally suffered transposition.

It may be that the original text of these two verses ran as follows:—

"14a And the cart came into the field of Joshua the Beth-shemite, and stood there, and there was there a great stone; 15a And the Levites took down the ark of the LORD, and the coffer that was with it, wherein the jewels of gold were, and put them on the

great stone, 14b and clave the wood of the cart and the kine they offered up for a burnt-offering unto the LORD; 15b and the men of Beth-shemesh offered burnt-offerings and sacrificed sacrifices the same day to the LORD."

It will be seen that this is by far the least violent expedient for dealing with the text, and makes perfect sense. As Beth-shemesh was a Levitical city, the presence of Levites causes no astonishment: and we get rid of the curious narrative by which the cart is split up and the cattle offered without any notice being taken of the Ark. The Wellhausen treatment of this passage leaves an extraordinarily strange narrative in verse 14, and destroys the history that we have, in the interests of a theory. That is the first irregularity charged in the history of this period. Even if Wellhausen were right as to the text — and it must be remembered that there is no tittle of evidence to that effect — the circumstances of the return of the Ark were so exceptional that no general inference could be drawn from the occurrence.

The next episode is one on which the Wellhausen critics do not love to dwell. It appears that the men of Beth-shemesh treated the Ark irreverently, and were punished quite as severely as would have happened in P. The representation of the Ark is here exactly the same as in the Law, and for this reason we hear very little of it from the critics. Then the men of Beth-shemesh sent to Kiriath-jearim. The men of that place came and fetched the Ark, and they brought it "to the house of Abinadab in the Gibeah [hill], and Eleazar his son they sanctified to guard the Ark of the LORD" (vii. 1). There it remained for twenty years, and we hear nothing further of it till David fetches it (in 2 Sam. vi.). On this, two points are made: (1) that the Ark remained for twenty years in the house of a private individual; and (2) that somebody who was not a descendant of

Aaron was here sanctified as its keeper. The first point is not of much consequence. The building of a suitable temple was not something that could be improvised in great haste at a time of political confusion. The former abode of the Ark had (as appears from Jer. vii. 12, 14; xxvi. 6, 9) been destroyed — presumably by the Philistines — and it is probable, if we discard the data of Chronicles, that the Mosaic tent or what remained of it had perished. The present narrative of 1 Kings viii. 4 appears to refer to David's tent. If it does not, then the Mosaic Tent of Meeting still existed but, for some reason, was not available at Kiriath-jearim.

The seat of the Ark appears, however, to have had considerable importance even in these twenty years. Our present Hebrew text presents us with at least three place-names that are almost identical: גבע, *Geba,* גבעה, *Gibeah,* גבעון, *Gibeon.* In addition to this, the word גבעה, *Gibeah,* means "hill," and we get the Gibeah of Kiriath-jearim. Further we find expressions like "Gibeah of God," "Gibeah of Saul," etc. It is obvious that textual errors would necessarily arise in dealing with words so much alike, and differences between the Massoretic text and the Versions show us that this was in fact the case. The matter is further complicated by the close geographical proximity of all these places: Kiriath-jearim was one of the cities of the Gibeonites (Josh. ix. 17); it follows that its Gibeah must have been near Gibeon. According to the Massoretic text of Isaiah x. 29, Geba and Gibeah of Saul were near each other, but the names are textually doubtful. Geba (Josh. xviii. 24), Gibeon (ver. 25), and the Gibeah of Kiriath-jearim (ver. 28) were, according to the Massoretic text, all in the territory of Benjamin. Gibeon and Geba

were both priestly cities (xxi. 17). Geba, Gibeah, and Gibeon were all near Ramah.[1]

When the facts are examined, one point emerges from the tangle with considerable clearness. It is plain that the Gibeah of God in 1 Samuel x. 5 must be the same place as that which is called Geba in the Massoretic text of xiii. 3, where the LXX and Targum have Gibeah. There cannot have been two places of almost the same name in Benjamin, both containing a נציב (rendered by the R.V. "garrison") of Philistines. The importance of this identification is considerable. The hill or Gibeah of God can hardly have been anything but the Gibeah of Kiriath-jearim in Benjamin, where was the Ark of God. Other identifications may be correct: but this one alone proves that in the view of the Philistines considerable importance attached to the seat of the Ark. We learn too from 1 Samuel x. that there was a high place there. Obviously, even during these twenty years, the place where the Ark was, continued to preserve no small measure of religious and political consequence.

The second point is more serious — if any point based on such fragmentary information can be deemed to be serious. Who Abinadab was we do not know, except that he lived on the Gibeah or hill of Kiriath-jearim. Dr. H. A. Poels, a pupil of Professor Van Hoonacker's, has devoted a good deal of work to the subject, and published two monographs on the seat of the Ark in these narratives. Many of his conclusions appear to me untenable, yet in dealing with these questions I have profited by his labors. A very ingenious conjecture of his should be mentioned here, as it may convey to some minds the conviction that it has failed to bring to me. He thinks — and Professor Van Hoonacker supports him with

[1] Poels, Le Sanctuaire de Kirjath-jearim, p. 41.

the weight of his authority — that for ואת אלעזר בנו, "and Eleazar his son," we should read ואת בני אלעזר, "and the sons of Eleazar." The change is very slight indeed and may be correct. If it be, there is an end of the critical case on this point. It is, however, a mere conjecture, and personally I see no sufficient reason for altering the present text. It is quite true that this Eleazar is not mentioned as one of the sons of Abinadab when the Ark leaves the Gibeah: but he may have died in the intervening twenty years. In any case the data are too scanty for any certain inference.

For, after all, what does the whole difficulty amount to? Eleazar, son of Abinadab, is consecrated to guard the Ark. Who Abinadab was we do not know. Dr. Poels connects him with the family of Saul, but on insufficient evidence. He may have been of priestly descent. Nor again do we know how or where Eleazar guarded the Ark. The functions he discharged may have been such as could be performed by a person of lay descent. The theory that he slept in the same chamber with it is unsupported by evidence and is intrinsically improbable. To attempt to come to any certain conclusion on this half verse of Samuel is to seek to make bricks without straw.

With this half verse our difficulties end. The narrative of the bringing of the Ark to Jerusalem is far simpler. First, an attempt is made to carry the Ark on a new cart. Probably the method of conveyance was suggested in part at least by the fact that it was in this way that the Ark had returned from the Philistines. Uzzah accidentally touches it, and the result that we should have expected from our P follows. This episode, reinforcing the narrative of the great slaughter in the field of Beth-shemesh, again leads me to think that the guardianship of the Ark by Eleazar cannot have consisted in any

very intimate association with it. The occurrence inspired David with a natural fear, and the Ark was promptly deposited in the house of Obed-edom the Gittite. Much has been made of this, but without reason.[1] After the episodes we have noticed, we may infer with perfect certainty that Obed-edom and all his family took very good care not to approach the chamber where the Ark was. It is then transported to Jerusalem, but the method of carriage is changed. "When the bearers of the ark of the LORD had gone six paces" is the phrase employed (2 Sam. vi. 13). Here we have a reversion to the practice of carrying the Ark. Why? Surely because it was known that this was the old practice, and events had shown that the new method was not safe. We are not told in Samuel who bore the Ark, but we are entitled to assume that this task was discharged by duly qualified persons. Thus the only real question on the whole narrative is as to the identity of Eleazar who — if the text be sound — discharged functions which in the wilderness period would probably have been performed by priests or Levites. Our materials do not enable us to say definitely whether his action was lawful.

There is one important point made by the critics on the history of this period which appears to me to be in the main sound. The facts about the descent of Zadok set forth in the second division of the Hebrew canon do not agree with the statements of the Hagiography, and there can be no doubt which is entitled to the preference. We have seen that in Deuteronomy Moses enacted that Levites going to the central sanctuary were to have a position similar to that of the descendants of Aaron. In the post-Mosaic age we find a Leviti-

[1] Wellhausen's statement that David made Obed-edom "its keeper" (p. 130) is one of those little imaginative touches that distinguish this writer.

cal priesthood. We are now to witness a further step. Accepting the data of the prophets and rejecting the conflicting data of the Hagiography, we must hold that God transferred the high priesthood from the line of Aaron to Zadok and his descendants, a family stated by Ezekiel to be Levitical. Here is the most material passage:—

"And there came a man of God unto Eli, and said unto him, Thus saith the LORD, I did surely reveal myself [Septuagintal text] to thy father's house when they were in Egypt as bondmen [so the LXX] to the house of Pharaoh. And I chose him out of all the tribes of Israel to be my priest, to go up on my altar, to burn incense, to wear an ephod before me, and I gave to thy father's house all the offerings of the children of Israel made by fire. . . . Therefore saith the LORD, the God of Israel, I said indeed that thy house, and thy father's house, should walk before me for ever: but now, saith the LORD, Far be it from me; for them that honor me will I honor, and they that despise me shall be lightly esteemed. Behold, the days come, that I will cut off thine arm, and the arm of thy father's house [or, according to another possible pronunciation of the same Hebrew followed by the LXX, "thy seed and the seed of thy father's house,"]. . . . And I will raise me up a faithful priest, that shall do according to that which is in my heart and in my mind: and I will build him a sure house; and he shall walk before mine anointed for ever. And it shall come to pass, that every one that is left in thy house shall come to bow down to him for a piece of silver and a loaf of bread, and shall say, Put me, I pray thee, in one of the priests' offices, that I may eat a morsel of bread" (1 Sam. ii. 27–36).

But one priestly personage had received a revelation in Egypt, and it was he that was subsequently chosen out of all the tribes of Israel to be a priest. Everything in the description applies, naturally interpreted, to Aaron and his family. Apart from the rationalistic presuppositions, the following comments of Wellhausen are just: "Here it is the house of Eli, and of Eli's father, that is the priestly family duly chosen in Egypt; *contrary* to hereditary title, and contrary to a promise of perpetual continuance, is it deposed at the higher claims of justice. The faithful priest who is to fill the vacant

place is Zadok. This is expressly said in 1 Kings ii. 27; and no other than he ever had 'a sure house,' and walked uninterruptedly as its head and ruler before the kings of Judah. This Zadok, accordingly, belongs neither to Eli's house nor to that of Eli's father; his priesthood does not go back as far as to the time of the founding of the theocracy, and is not in any proper sense 'legitimate'; rather has he obtained it by the infringement of what in a certain degree might be called a constitutional privilege, to which there were no other heirs besides Eli and his family. Obviously he does not figure as an intermediate link in the line of Aaron, but as the beginner of an entirely new genealogy" (p. 126). Ezekiel speaks of the sons of Zadok as Levites (xli. 46, etc.). It is antecedently probable that if a man like Micah preferred to have a Levite as his priest, a king of all Israel would not appoint a non-Levite: and, once we look at the other material passages from the standpoint we have now reached, we see how they all fit in. It is striking, now, that Jeremiah xxxiii. 18–22 speaks of the covenant with "the Levites, the priests" — *not* with the house of Aaron. Malachi is even more emphatic, speaking of the covenant with Levi (ii.). From the beginning of Judges to the end of the prophetical writings we hear of Aaron only in 1 Samuel xii. 6, 8; Micah vi. 4; i.e. in passages of historical retrospect; we never hear of his sons as the priests of Jerusalem or of the covenant with his family. When the author of Kings charges Jeroboam with having made priests of persons who were not fitted for the office by descent, the complaint is that he "made priests from among all the people, which were not of the sons of *Levi*" (1 Kings xii. 31). Surely these facts all point in one direction, and in one direction only.

The Law was understood as entitling all suitable Levites to perform priestly offices: and it was known and realized that

the high priesthood itself had been transferred from the house of Aaron to a Levitical non-Aaronic family when Solomon deposed Abiathar and appointed Zadok in his stead.

What Zadok was before we find him mentioned in David's reign we do not know. Possibly he had been Saul's priest in the later years of the latter's reign. The first king had quarreled with the house of Eli; yet that he had a priest appears from the passage where we read that the LORD answered him not with Urim (1 Sam. xxviii. 6) for their use implies the presence of a priest. But on this point no certainty is possible.

There is one verse in the books of Samuel which is valuable for our purpose because it throws light on the development of the hierarchy. It is the verse already cited where we read that Eli's descendant shall come and bow down before the high priest for a piece of silver and a loaf of bread and ask for one of the priests' offices in order to gain a living. This shows us a variety of priestly posts, with emoluments attached, to which the high priest could appoint. Contrast this developed organization with the simplicity of the Pentateuchal system, in which we find one high priest and some assistants without gradations of rank or payments in silver. Can any candid inquirer doubt which of the two representations is the earlier in point of time?

In passing to the books of Kings it may be well to say at once that the reference to "the priests the Levites" in 1 Kings viii. 4 was unknown to the LXX, and was probably not a part of the original text. When this is omitted, the data of this period present us with a hierarchy that is obviously more developed than that of the Pentateuch; while, as has already been indicated, the Levitical descent of the priesthood is assumed as unquestionable (1 Kings xii. 31). It is perhaps just worth noticing that in 1 Kings ii. 35 the LXX has a statement

that the king made Zadok first priest instead of Abiathar. Whether the additional words be accepted or rejected, there can be no doubt that they represent the true meaning of the text.

The high priest is often mentioned in the books of Kings — generally, like Aaron in the Pentateuch, with the simple title of "the priest," but sometimes with some more elaborate style. Thus we read of "Jehoiada the priest and the priests" (2 Kings xii. 8), though he is also called "the high priest" in verse 11, if the text be sound. "Uriah the priest" (xvi.) is another instance, while Hilkiah is sometimes styled "the priest" and sometimes "the high priest." The other references to the hierarchical organization are even more interesting, though they are tantalizingly meager. We read of a second priest (2 Kings xxv. 18; Jer. lii. 24; also 2 Kings xxiii. 4, if the reading of the Targum be sound), of certain guardians of the threshold — three in number — who appear to hold high rank in the hierarchy (2 Kings xxv. 18; Jer. lii. 24; 2 Kings xii. 10), and of "elders of the priests" (2 Kings xix. 2; Isa. xxxvii. 2; Jer. xix. 1, if the text in the last-cited passage be sound). All this is a great advance on the Pentateuch, as are also the powers of the overseer of the house of the LORD, of whom we read in Jeremiah.

If we except Ezekiel, the most interesting passage relating to the priesthood that has come down to us from this period is Jeremiah xxxiii. 18–21. Significance attaches in particular to the variants — due either to erroneous interpretations or to glossators — that have been preserved by the Vulgate: "Neither shall the priests [Vulg. and Syriac add "and"] the Levites want a man before me to offer burnt-offerings, and to burn oblations, and to do sacrifice [Vulg. adds "and to kill victims] continually .... then may also my covenant be broken

. . . . with the Levites [Vulg. adds "and"] the priests [Syriac, inverting, reads "the priests and the Levites"], my servants." Now there we have the two views in a nutshell. To the prophet, "the priests the Levites" are the ministers of God who are qualified to serve him at the altar of the religious capital: to later interpretation, priests and Levites are two separate classes: the latter are occupied in killing victims, while only the former are qualified to discharge the higher duties. The verses are lacking altogether in the LXX, and are for that reason thought by some to be the work of a later writer. If that were so, it would merely prove that the original view survived to a later date than that of Jeremiah. As the priestly functions of Levi are fully recognized by Malachi (ii. 1–9; iii. 3), and, as will be seen hereafter, were also regarded as historically true by Ezekiel, it appears clearly that the whole of the second part of the Hebrew canon adopts the standpoint of the Law. The Aaronic priesthood was merged in the Levitical by the dispositions of Deuteronomy, and the high priesthood was subsequently transferred from the line of Aaron to Zadok. In the organization of the hierarchy there was development during this period, but no breach, save in the Northern kingdom, with the fundamental principle that the priesthood was Levitical. The duties of the priests remained substantially what they had been from the Mosaic age onwards, — the charge of the great central sanctuary with its national offerings, the performance of the priestly duties in the case of statutory individual offerings, the consulting of the Urim and Thummim, and the giving of torah. Amid modifications and developments of details the main outlines of the priestly position and the priestly duties remain unchanged. Haggai and Malachi draw for us the same picture of the priesthood as Leviticus and Deuteronomy. One prophet, however, deserves

separate consideration — not because he contradicts our other data, but because special importance has been attached to his work by the modern critical school. We shall see that he holds the same views of the course of history as the other authorities we have examined, but that he also realized that the changes of circumstances which had taken place in the course of centuries called for corresponding changes in the priestly organization and ritual, and that he accordingly propounded a scheme, not by way of literary fraud but speaking in his own proper person as the messenger of God.

EZEKIEL

The prophet Ezekiel was of priestly descent and displays extraordinary interest in matters of priestly concern. The part of his work that most closely concerns us is a portion of the vision with which the concluding chapters of his book are occupied; but, as it has been asserted that he was unacquainted with P, we must just glance at one or two of the facts that are material to this question. No reader of Ezekiel will deny that there exists between him and P some very close relationship. Either he has steeped his mind in the phrases and thoughts of the Pentateuch or else he in some way influenced its composition. In considering which of these two views is correct it is necessary to recall several facts.

Ezekiel writes: "Her priests have done violence to my law, and have profaned mine holy things: they have put no difference between the holy and the common, neither have they caused men to discern between the unclean and the clean, and have hid their eyes from my sabbaths, and I am profaned among them" (xxii. 26). This is tantamount to a direct statement that Ezekiel knew a law following the very words of

Leviticus x. 10 and other passages of P.[1] Other proofs are provided by the passages of earlier writers and Ezekiel himself that have been examined in "Studies in Biblical Law," "Essays in Pentateuchal Criticism," and the present article, and by the internal marks of date shown by P itself. It may safely be said that, but for the long-standing misconceptions of the meaning of P, nobody would ever have dreamt of denying Ezekiel's acquaintance with it.

When we come to the vision several things strike us. Ezekiel omits to mention many existing institutions; for instance, the high priesthood and the Feast of Weeks. Whatever the reason may be, it is clear that such omissions cannot give ground for an argument from silence, seeing that both these institutions admittedly existed long before his time. Other elements in his proposed legislation were clearly ideal and could never have been realized without a miracle. In some cases our information does not suffice to enable us to understand what was in the prophet's mind when he put forward his plan for dealing with them. Yet in the case of the most important of all the proposed changes — the distinction between the sons of Zadok and the other Levites — the reasons he gives are so clear, and are so convincingly supported by our other information, that we cannot fail to understand the workings of his mind.

In xl. 45, 46, he begins to draw a distinction between "the priests that keep the charge of the house" and "the priests that keep the charge of the altar, they are the sons of Zadok

[1] This conclusively refutes Wellhausen's "That the prophet should know nothing about a priestly law with whose tendencies he is in thorough sympathy admits of only one explanation, — that it did not then exist" (p. 124). Compare, also, the inference on page 123 as to the non-existence of "the systematic separation of that which was holy from profane contact."

that come near from among the sons of Levi to the LORD to serve him"; and this is continued in subsequent chapters. But the most important passage of all is xliv. 6–16:—

"And thou shalt say to the rebellious, even to the house of Israel, Thus saith the Lord GOD: O ye house of Israel, let it suffice you of all your abominations, in that ye have brought in aliens, uncircumcised in heart and uncircumcised in flesh, to be in my sanctuary, to profane it, even my house, when ye offer my bread, the fat and the blood, and ye [so read with LXX, Syriac, Vulgate] have broken my covenant with [so read with LXX, Syriac. Vulg.] all your abominations. And ye have not kept the charge of mine holy things: but ye have set [read probably "them as," changing one letter of the Hebrew,] keepers of my charge in my sanctuary. Therefore [so read with LXX] thus saith the Lord GOD, No alien uncircumcised in heart and uncircumcised in flesh, shall enter into my sanctuary, of any alien that is among the children of Israel. But the Levites that went far from me, when Israel went astray, which went astray from me after their idols; they shall bear their iniquity. Yet they shall be ministers in my sanctuary, having oversight at the gates of the house, and ministering in the house; *they* shall slay the burnt-offering and the sacrifice for the people, and *they* shall stand before them to minister unto them. Because they ministered unto them before their idols, and became a stumbling-block of iniquity unto the house of Israel; therefore have I lifted up mine hand against them, saith the Lord GOD, and they shall bear their iniquity. And they shall not come near unto me, to execute the office of priest unto me, nor to come near to any of my holy things, unto the things that are most holy: but they shall bear their shame, and their abominations which they have committed. Yet will I make them keepers of the charge of the house, for all the service thereof, and for all that shall be done therein. But the priests the Levites, the sons of Zadok, that kept the charge of my sanctuary when the children of Israel went astray from me, *they* shall come near to me to minister unto me, and they shall stand before me to offer unto me the fat and blood, saith the Lord GOD: *they* shall enter into my sanctuary, and *they* shall come near to my table, to minister unto me, and they shall keep my charge."

The ideas here set forth are worked out further in other parts of the vision. In view of all the facts we have considered, the prophet's meaning is sun-clear. Under the old system many abuses had crept in. One that concerns us

particularly relates to the entry of aliens into the sanctuary. We have seen that the Pentateuch expected the sacrificant himself to slay the animals that he presented for sacrifice at the religious capital. With the growth of luxury well-to-do people would naturally develop a distaste for the functions of a slaughterer; while the increase of wealth, with the concomitant increase in the number of victims offered, rendered the task impossible. To meet this and other necessities of the natural expansion of the sacrificial organization, heathen hierodules had been introduced. Ezekiel held that this and other practices were inconsistent with the proper separation of holy and profane. And so he puts forward a scheme of legislation which shall apply the Mosaic principles to the altered circumstances of the age. Among the Levites most had been faithless: Ezekiel therefore degrades them from their right to the full priesthood and provides that they shall take the place of the temple slaves in certain necessary functions. On the other hand the sons of Zadok had been loyal to their charge. They are therefore to have the monopoly of the full priestly position, and Ezekiel practically reënacts — with slight modifications — the Pentateuchal legislation as to the sons of Aaron, this time applying it to the sons of Zadok, whom history and the Divine choice had set in the place of the descendants of the first high priest. Other provisions (e.g. xlii. 14; xlv. 4 ff.) are designed to carry out more effectually the dominating principle of the legislation — the due separation and safeguarding of what is holy. The architecture is also stated to be inspired by this consideration (see especially xliii. 7 ff.). No doubt Ezekiel throughout borrows from the ideas of the Pentateuch: the idea of the separation between the sons of Zadok and the rest of the Levites is suggested by the old wilderness distinction between the sons of Aaron and the sons

of Levi. His very phraseology is adopted from the language of P, though familiar expressions such as "keep the charge" are invested with a new meaning suited to the circumstances of the age and the nature of the functions to be performed. In so far as it is practical, Ezekiel's legislation may be defined as an endeavor to bring up to date and apply to changed circumstances the ideas of the legislation of the wilderness. The need of the reform was suggested by the abuses in the temple of Solomon and the disloyalty of the Levites; its principles were developed from the ideas of the priestly legislation; its language was borrowed from the Pentateuch; its methods were dictated by the teachings of experience.[1]

CONCLUSION

On the view set forth in these pages, the last book in the Hebrew canon no longer governs the meaning of the first, and the history follows an orderly and intelligible course from

[1] This paper is already so long that further remarks about Ezekiel's vision must be compressed as much as possible. The explanation given of the provisions as to the Levites contains two elements: (1) that it was designed to regulate circumstances that had arisen since the time of Moses and to remedy obvious abuses and defects, and (2) that for this purpose Ezekiel followed as closely as he could the old Mosaic provisions. Both these are confirmed by other portions of the vision.

(1) A king's offering had come into existence in the monarchy in addition to the statutory national offerings (2 Kings xvi. 15). Naturally Moses had not provided for this. Ezekiel apparently regulates it in xlvi. 2, 4–8, 11–15; for in 13 f. the second person appears to have ousted the third which is found in several MSS. and Versions. I do not think that these offerings are identical with the national offerings which, according to xlv. 16 f., were to be provided by the prince out of the oblation there mentioned. On the contrary, they appear to be additional and in substitution for the king's offering, *not* for the statutory national offerings which were instituted by the Pentateuch, and (see Essays in Pentateuchal Criticism, pp. 200–202) are found in existence during the monarchy. Other additions to the Pentateuchal legislation (e.g. xlvi. 16–18)

Moses to Malachi. The priesthood of Aaron and his family is created to provide for the due exercise of the sacerdotal functions, and for the desert period a tribe is set apart to act as sacred porters of the wilderness sanctuary. At the same time a corpus of ritual legislation is given, some of which applies only to the age of Moses, while other portions, intended for use after the conquest, require for their administration, in the conditions of settled life, a numerous and scattered priesthood, such as could not be provided by the descendants of Aaron living at the time of the conquest. On the eve of the entry into the promised land, Deuteronomy enlarged the rights and duties of the Levites to meet the need thus created. From Moses to Malachi every writer who touches on the subject recognizes this Levitical priesthood. The high priesthood remained in the house of Aaron till the time of Solomon, when it was definitely transferred from Abiathar to Zadok of the tribe of Levi, and it remained permanently in the house of the latter. Ezekiel, writing in the exile, strove to purify the

are evidently also due to post-Mosaic changes (this indeed applies to xlv. 16 f.). Probably many of his other ordinances are intended to meet later abuses. For instance, when one reads xlvi. 19–24, the scene at Shiloh in the days of Eli's sons recurs to the mind, and one wonders whether this and other architectural details are not intended to insure improvements on the practice of Solomon's temple.

(2) With regard to the Mosaic inspiration, Van Hoonacker appears to me to have hit the nail on the head with his suggestion that the impracticable chess-board division of the land — so impossible in a country like Canaan — was suggested by the desert camp where, of course, the Mosaic pattern was feasible and natural. In No. 14, *supra*, I have adduced evidence for holding that the "king" of the Massoretic text was unknown to the original text of Deuteronomy, in which case Ezekiel's "prince" would be an intentional reversion to the language of Moses. While therefore it must be fully admitted that Ezekiel's vision is impracticable and contains ideal elements, it does not seem to be nearly so difficult of explanation as is commonly supposed.

priesthood and the ritual from the abuses which had crept in. Finding his inspiration in the books of Moses, and seeking to remedy the serious faults of the organization, he put forward a plan for once more dividing the Levitical priesthood into two classes; the one consisting of the descendants of Zadok, who should be priests of the highest type; the other formed by the disloyal Levites, who should discharge a lower ministry. In many respects his scheme influenced the course of history, and we find that in the days of Nehemiah a distinction is drawn between priests and Levites, though we cannot suppose that the sons of Zadok were alone recognized as priests. The national misfortunes had put a new spirit into the people. A study of the Law in its entirety, including even the most technical parts, began to spread in non-priestly circles.[1] The destruction of Kingdom and Temple had put an end to the period in which new precedents were readily created to meet fresh needs. It had also dispersed the central body of priests who had continued the line of interpreters of the original meaning of the Mosaic law. This task now fell to men who were not equally in touch with the original living tradition, and might be largely theorists not particularly fitted by their professional occupations to solve the problems that arose. The results were curious. On the one hand men regarded the Torah as containing unchangeable rules that were applicable to their own day: on the other they were confronted with institutions (such as the Nethinim and the children of Solomon's servants) that were long subsequent to the age of Moses, and with needs for which the Torah did not provide. The creative period was over; it only remained to modify under the guise of explain-

[1] Originally large portions of the Pentateuch were intended to reach the people only through the teaching of the priests. Even Ezekiel (xliv. 23) held this view as completely as Moses and the other prophets.

ing. Accordingly there arose a system of interpretation which read the Law in the light of circumstances for which it was never intended, and put into its provisions meanings that had not been contemplated by the Lawgiver. The chain of living tradition and formative precedent had been snapped by the exile: the work of Ezekiel had tended to direct the current of religious progress into the new-old channels that seemed to provide for the needs of the period by the devices of the Mosaic ordinances: the labors of the scholarly interpreters of the Law — the scribes — did the rest. These factors brought into existence the non-Mosaic Mosaism with which we meet in the books of Chronicles and in the glosses on the text of the earlier books.[1]

[1] With regard to the Chronicler, I think it well to quote the following passage from my review of Curtis and Madsen's commentary in the Churchman (London) for January, 1911, in explanation of the true purpose of his work:—"It is to be observed that the Chronicler himself twice refers to a 'midrash' as an authority. The following extract from the article 'Midrash' in the 'Jewish Encyclopædia' throws some light on the meaning of this expression:

"'A term occurring as early as 2 Chron. xiii. 22, xxiv. 27, though perhaps not in the sense in which it came to be used later, and denoting "exposition," "exegesis," especially that of the Scriptures. In contradistinction to literal interpretation, subsequently called "peshat," the term "midrash" designates an exegesis which, going more deeply than the mere literal sense, attempts to penetrate into the spirit of the Scriptures, to examine the text from all sides, and thereby to derive interpretations which are not immediately obvious. . . . The divergence between midrash and peshat increased steadily: and, although the consciousness of this divergence may not have increased in a proportionate degree . . . . it was never wholly obscured' (vol. viii. p. 548).

"Of the countless millions of Jews who have used this term through the ages, one only has produced work that was deemed worthy of inclusion in the Canon.. That one was the Chronicler. It is reasonable to suppose that he knew the meaning that the expression had in his own time, and the only question that can arise is whether that meaning was or was not the same as in later

times. If we found such a word as 'allegory' employed by a narrator to designate one of his sources, it would be fair to inquire whether he used the word in the sense that appears natural to us, or in some other sense, and the answer would be determined by internal evidence. If it then appeared that the narrative based on that source really was allegorical in character, we should conclude (1) that he had in fact used the word in the sense with which we are familiar, and (2) that his original public would have understood this as well as we do.

"Now, any thinking reader of 2 Chron. xiii. will, I imagine, agree that it is not literal history. When, therefore, we find the only authority referred to in this chapter designated by the appropriate term 'midrash,' it seems impossible to doubt that the expression is used in substantially the same sense as later, and that the Chronicler and his original readers appreciated this as well as could any modern. (R. V. 'commentary' entirely fails to convey the meaning of 'midrash.') The real meaning of the chapter must be sought in such phrases as, 'But as for us, the Lord is our God, and we have not forsaken Him;' 'And, behold, God is with us at our head;' 'O children of Israel, fight ye not against the Lord, the God of our fathers.' And so it came about that Talmudic authorities did not question the canonicity of Chronicles, but treated it as a book intended for the particular kind of spiritual exposition which is designated 'midrash.' This is really what is meant by the harsh and unsympathetic paragraph of the 'Jewish Encyclopædia,' which Professor Curtis summarizes in the following sentence:

"'While in rabbinical literature Chronicles was regarded with suspicion, its historical accuracy being doubted by Talmudic authorities, and it being held to be a book for homiletical interpretation, yet its canonicity, as some have thought, never seems really to have been questioned' (p. 2).

"Failure to grasp this truth has led to the most perverted views of the Chronicler, his work, and its historical and religious value. I suppose that, after what has been said, my readers will have no difficulty in appreciating 2 Chron. xiii. Let us glance at another instance: In 1 Chron. xxv. we are told that David instituted certain Levitical musical services. Verse 4 brings us to a list of names. Though there is a good deal of corruption, it is absolutely certain that many of these names are not proper names at all, but Hebrew words including some verbs like 'Giddalti' (I have made great). It is generally agreed that originally these words formed a consecutive sentence, but owing to the state of the text the ex-

act details are not clear. The reading favoured by Professor Curtis is rendered by him as follows:

> "'Be gracious unto me, O Yah, be gracious unto me;
> Thou art my God whom I magnify and exalt.
> O my Help (or, Thou art my Help) when in trouble, I say,
> He giveth (or, Give) an abundance of visions.'

"This rendering will do as well as any other for the purpose of my illustration. It will then be followed immediately by verse 5, 'All these were the sons of Heman the king's seer in the words of God,' etc. Now, I ask, if this were an English book, would any English reader think there were men who literally were called by such names as 'I magnify,' etc.? Would he proceed to infer that the author of the book believed this to be literal history, or for one moment imagined that his readers could suppose it to be so? Would he, then, charge him with 'deliberate invention or distortion of history,' or seek to defend him against such a charge by insisting that he has 'worked everywhere according to sources'? (See J. Wellhausen, "Prolegomena," Eng. trans. p. 222 (quoting Dillmann).) Or would he inveigh against his 'law-crazed fancy'? (*Op. cit.*, p. 195.) Or would he write a note saying, 'Why what was possibly an ancient prayer should thus be resolved into proper names cannot be determined'? (Curtis and Madsen, p. 278.) How many readers of the 'Odyssey' wonder that Οὖτις could have been regarded as a name by Odysseus and the Cyclops — or the Greeks who listened to the Rhapsodists? What would happen if the 'Pilgrim's Progress" were edited on such lines? Or is it really supposed that a Hebrew-writing canonical author could be so ineffably stupid as to write words like 'I magnify,' 'I exalt,' etc., *in his own language* without understanding what he was writing? Read the lines of the prayer as conjecturally restored, and consider: were not all these in a very deep and spiritual sense the sons of Heman the king's seer in the words of God? Can any Temple service do more than establish such communion between men and God? The chapter may be corrupt, the details are not in all cases clear, but the bed-rock meaning is as plain as could be desired. When the Chronicler is tried for this falsification of history, all who have ever spoken in parable or allegory will be his companions in the dock. Shall we speak of law-crazed fancy or spiritual insight?"

XXI

THE HIGH PRIEST

[From the *Bibliotheca Sacra*, January, 1911.]

The paper on "Priests and Levites"[1] grew so long that it was impossible to include many remarks on the high priest; yet one or two observations fall to be made respecting Wellhausen's theory on this point. Most of his discussion consists simply in putting indubitable facts from his own peculiar point of view. Thus it is certainly the case that in 1 Samuel ii. 36 the principal priest appoints some of his inferiors: but this really tells against Wellhausen. The Priestly Code knows no priestly offices with salaries attached and points to a much simpler organization. Aaron's sons act under his oversight (Num. iii. 4), as Wellhausen urges on page 149 of his Prolegomena; but that is true of the inferior priests from the earliest times. Eli's sons proved too insubordinate for their weak and aged father, yet the latter was held responsible by the prophet—obviously because it was his duty to control them. The whole of Wellhausen's reasoning about the king is worthless unless the Priestly Code can be demonstrated to be post-Mosaic. In the discussion of "Priests and Levites" it was shown to be untrue that "the so-called Mosaic theocracy . . . . is, so to speak, a perfect fit for post-exilian Judaism and had its actuality only there"[2] and this is proved still more fully in my article above, "Some Aspects of the Conservative Task in Pentateuchal Criticism."[3] As a whole the question of the high priest has very little decisive force one way or another, because in dealing with it Wellhausen has not produced a single cogent argument. His discussion is noteworthy only for its special

[1] *Supra*, No. 20. [2] *Op. cit.*, p. 151. [3] *Supra*, No. 1.

coloring, yet there is one point that calls for notice. On page 150, he writes: "His death makes an epoch; it is when the high priest—not the king—dies that the fugitive slayer obtains his amnesty (Num. xxxv. 28)." In point of fact this very law—that of Numbers xxxv. — was singled out by Dareste as the most archaic portion of the legislation. I reproduce here his remarks, together with some comments of my own from page 24 of my "Notes on Hebrew Religion":—

"Nous n'avons pas à examiner ici à quelle époque a été écrit le Pentateuque. Ce qu'on peut affirmer, c'est que les institutions dont il nous donne le tableau sont très anciennes, contemporaines de l'établissement d'un pouvoir central. On en trouve d'analogues chez tous les peuples, au moment où ils ont cessé d'être un assemblage de familles pour devenir une nation et former d'être un assemblage de familles pour devenir une nation et former un État. Ce n'est pas non plus une législation idéale, une utopie rétrospective. Il n'y a pas une des lois mosaïques qui n'ait été réellement pratiquée chez des peuples autres que les Hébreux. La plus archaïque de ces lois est celle que nous lisons dans le chapitre xxxv. du livre des *Nombres*" (Études d'Histoire du Droit, p. 28, n.). The last two sentences appear to me to need some qualification — e.g., it might reasonably be contended that some other portions of the legislation are as *archaic* (as distinguished from ancient) as Num. xxxv. (I would remark parenthetically, that on p. 22 Dareste had devoted special attention to this chapter and its parallels in Greek and Icelandic law.) Indeed, I gather from pp. 23, 24, that Dareste would say the same of Deut. xxi. 1–9. But the soundness of his general position could not be questioned by any student of comparative jurisprudence who examined the Mosaic legislation with an unprejudiced mind."

The true explanation of the position of the high priest is quite different from that supposed by Wellhausen. This law is merely a generalization and amplification of the personal experiences of Moses the manslayer[1] and the high priest takes the place of Pharaoh because he was the only permanent hereditary official created by the law.

[1] See Studies in Biblical Law, pp. 104 f.

Wellhausen's idea of the high priest is really closely bound up with his view that P represents the Israelites as a church. In another place he writes: "Now the smaller sacred fellowships get lost, the varied groups of social life disappear in the neutral shadow of the universal congregation or church עדה, קהל). The notion of this last is foreign to Hebrew antiquity, but runs through the Priestly Code from beginning to end" (p. 78). It would be truer to say that our translation of these Hebrew words colors them in a manner that does not accurately represent the original meaning. When we read of bees (Judges xiv. 8) we do not postulate an ecclesiastical organization, and translate by "congregation" or "church" just because we find the word עדה: nor is it true that the notion conveyed by these words is foreign to Hebrew antiquity. Deuteronomy contains laws excluding certain persons from the קהל, and Genesis xlix. 6; Numbers xxii. 4 (R. V., "multitude"); Deuteronomy v. 22; ix. 10; xxxi. 30; Joshua viii. 35; 1 Samuel xvii. 47; 1 Kings viii. 14; Micah ii. 5; 1 Kings xii. 20, all protest against Wellhausen's allegations. On the other hand, in many cases "horde," and even "crowd," would render the meaning of the words more exactly to modern readers than the translation "congregation."

XXII

THE FIFTH CHAPTER OF WELLHAUSEN'S PROLEGOMENA

[From the *Bibliotheca Sacra*, October, 1911.]

The fifth chapter of Wellhausen's Prolegomena completes the "History of Worship," which forms the earliest and most important division of this celebrated book. It is entitled "The Endowment of the Clergy," and while it does not possess anything like the interest or the consequence of the first four chapters it yet claims consideration in this series of articles. In many respects it carries to their logical conclusions mistakes that we have had to examine in their earlier stages. It is thus natural to subject it to some consideration, although the topics with which it deals are in some instances incapable of satisfactory treatment because of the extreme scantiness of our material. The chapter itself is divided into two main sections, — the first dealing with certain offerings, the second with the Levitical cities.

I.

The various kinds of offerings must, of course, be considered separately. This chapter is singularly difficult to deal with satisfactorily, for Wellhausen here surpasses himself in inaccuracy and confusion; as, for instance, when he writes, "In Deuteronomy the priests are entirely thrown upon the sacrifices.....if they are not exercising the priestly function they must starve (1 Sam. ii. 36)."[1] How or when

[1] Prolegomena (Eng. Trans.), p. 155.

First Samuel became a part of Deuteronomy is not explained nor are we told why the denunciation which obviously applies only to a single house — that of Eli — should be extended to the other priestly houses which were not implicated in its guilt. The statement itself is contradicted on the preceding page, where we are informed that "at an earlier date the priests of Jerusalem received money from those who employed them (Deut. xviii. 8), but for this had the obligation of maintaining the temple." This is an extraordinary falsehood, for Deuteronomy xviii. 8 reads: "They [i.e. Levites coming from the provinces] shall have like portions to eat, beside that which cometh *of the sale of his patrimony.*" In Wellhausen's hands this becomes a payment of money from those who employed them, coupled with an obligation of maintaining the temple, and that though, on the very next page, he alleges that they are entirely thrown upon the sacrifices.

In refuting such a discussion the only course open is to pick out the more or less salient points and treat of those — for the correction of every minor inaccuracy would consume space needlessly. The first matter of importance appears to be a comparison of the priestly dues in 1 Samuel ii. 12–16; Deuteronomy xviii. 3; and Leviticus vii. 34. In the first passage the "tribute of raw portions of flesh before the burning of the fat" is "treated as a shameless demand." "More tolerable is it, though even that is an abuse, when the priests cause boiled flesh to be brought them from the pot" (p. 153). Now I have already shown that, contrary to Wellhausen's assumption, the Priestly Code contemplates boiled flesh for the priestly dues,[1] and of course, on any view,

[1] Essays in Pentateuchal Criticism, pp. 211 f. = Bibliotheca Sacra, October, 1909, pp. 728 f.

the conduct of the priests is an abuse; thus there is no discrepancy between this passage and Leviticus. There remains the question of the relations between Deuteronomy and Leviticus.

> " . . . . We have it in Deuteronomy as 'the priest's due from the people' (xviii. 3=1 Sam. ii. 12) that he receives the shoulder and the two cheeks and the maw of the slaughtered animal; and yet this is a modest claim compared with what the sons of Aaron have in the Priestly Code (Lev. vii. 34),— the right leg and the breast. The course of the development is plain; the Priestly Code became law for Judaism. In sacrifice, *its* demands were those which were regarded; but in order to fulfil all righteousness the precept of Deuteronomy was also maintained, this being applied — against the obvious meaning and certainly only as a result of later scrupulosity of the scribes — not to sacrifices but to ordinary secular slaughterings, from which also accordingly the priests received a portion . . . .the precept being thus harmonistically doubled" (pp. 153 f.).

It will probably come as a surprise to Wellhausen's followers to be told that Deuteronomy does not permit any "ordinary secular slaughterings" in the religious capital; but the express terms of the law are in this matter too clear for doubt: "If the place which the Lord thy God shall choose to put his name there be too far from thee, then thou mayest kill of thy herd and of thy flock....and thou mayest eat within thy gates" (xii. 20). That is plain enough: the permission is limited to those who live at too great a distance from the place. But it is so worded as not to apply to the capital. Hence animals slaughtered there for food purposes, only, would still have to be sacrificed. If we turn to Deuteronomy xviii. 3, we find that it deals with the priests' due "from them that slaughter a sacrifice." The conjecture lies close at hand that the law is intended to apply to inhabitants of the capital sacrificing merely for food purposes. They would be under a heavy disadvantage as compared with per-

sons dwelling at a distance in having to pay any due at all on such animals, and accordingly the legislation grants them some relief in making it lighter than that on an ordinary peace-offering. It is of course impossible on our present materials to prove this with certainty. All that can be said is that the permission of profane slaughtering did not apply to these inhabitants so that they must have had to pay *some* due; that Deuteronomy xviii. in terms covers their case; and that it is, therefore, reasonable to suppose that it is to them that the due contemplated by Deuteronomy xviii. applies.[1] This explains the difference of terminology between Deuteronomy and Leviticus (which applies in terms to sacrifices of peace-offerings).

The next matter of importance dealt with in this chapter is the question of firstlings. I have treated of this before, but I think it well to allude to the matter shortly. Wellhausen believes that in Deuteronomy xv. 19, 20, "to sanctify unto the Lord," "to eat before the Lord," and "to offer to the Lord" are three equivalent ideas.

". . . . If now, in Num. xviii. 15 seq., every first birth is assigned without circumlocution to the priest, and a special paschal offering is appointed in addition, this can only be understood as the last phase in the development, partly because the idea of dues altogether is secondary to that of offerings, and partly because the

[1] During the desert period, animals killed for food were to be sacrificed for peace-offerings from the time of the enactment of Leviticus xvii. 5. Presumably, therefore, the usual dues on a peace-offering were paid on them, and so long as a sufficiency of manna was miraculously provided for food, this involved no hardship. But the case of the inhabitants of the capital was different. From the time of the settlement they alone of all Israelites were under a legal incapacity to slaughter non-sacrificially for food. It would therefore be reasonable that a smaller due should be paid by them on such sacrifices than was habitual in the case of ordinary peace-offerings.

immense augmentation to the income of the priests points to an increase of the hierocratic power" (pp. 155 f.).

The answer is shortly that a careful examination of the legal texts shows that in the Law this sanctifying of an animal meant withdrawing it from ordinary use, and sacrificing it to the Lord; and that the rule in Numbers v. 9 f. expressly applies to such cases, and explains the relationship of Deuteronomy xv. and Numbers xviii. On the true construction of the laws, a heave-offering was to be given to the priest; and Numbers xviii. only applies to such heave-offerings. Probably this heave-offering usually consisted of one or more firstlings. The fact that the law was interpreted otherwise after the exile cannot of course override its very plain expressions.[1]

Before dealing with tithes, we may clear away the unsound views entertained by Wellhausen about first-fruits.

"With the tithe of the fruit of the soil the first-fruits are at bottom identical; the latter were reduced to definite measure later and through the influence of the former. . . . But also the *reshith*, usually translated first-fruits, occurs in Deuteronomy, — as a payment of corn, wine, oil, and wool to the priests (xviii. 4); a small portion, a basketful, thereof is brought before the altar and dedicated with a significant liturgy (xxvi. 1 seq.). It appears that it is taken from the tithe, as might be inferred from xxvi. 12 seq. taken as the continuation of vers. 1–11; in one passage, xxvi. 2, the more general *usus loquendi* reappears, according to which the *reshith* means the entire consecrated fruit, which as a whole is consumed by the offerers before the LORD,[2] and of which the priests receive only a portion. But in the Priestly Code not only is the entire tithe demanded as a due of the clergy, the *reshith* also is demanded in addition (Num. xviii. 12), and it is further multiplied, inasmuch as it is demanded from the kneading-trough as well as from the threshing-floor; in every leavening the *halla* belongs to the LORD (xv. 20). Nor is this all; to the *reshith* (xviii. 12) are added the *bikkurim* also (xviii. 13), as something distinct. The distinc-

[1] For proof of the above, see the Churchman (London), July, 1906, pp. 425–430.

[2] As usual I have substituted "the LORD" for Wellhausen's transliteration of the Tetragrammaton.

tion does not occur elsewhere (Exod. xxxiv. 26); prepared fruits alone are invariably spoken of, the yield of the threshing-floor and the wine-press, of which first produce — 'the fulness and the overflow' — was to be consecrated. The *fat* of oil, wine, and corn is the main thing in Num. xviii. also, and is called *reshith* (ver. 12) or *terumah* (ver. 27); but the *bikkurim* (ver. 13) seem to be a separate thing, and, if this be really the case, must mean those raw fruits which have ripened earliest" (pp. 157 f.).

It is well in answering this to begin with *reshith* and *bikkurim*. There can be no doubt as to the enormous difference between the two in the legal texts.

First, as to the *dates*. In Leviticus xxiii. we have clear proof that the two offerings were separated by an interval of *seven weeks*. *Reshith* was offered (ver. 10 and 11) forty-nine days before *bikkurim* (ver. 15–17). The day of the *bikkurim* was the feast of weeks, or Pentecost, and it is with this date that the *bikkurim* are invariably associated in the legal texts (compare Ex. xxiii. 16, 19; xxxiv. 22, 26; Num. xxxiii. 26). No attempt to divide into different codes can alter this, for the dating appears equally in passages that are assigned to the earliest and to the latest stage.

Secondly, as to the *preparation and treatment*. *Reshith* was offered raw, *bikkurim* were cooked: *reshith* could not constitute a meal-offering, *bikkurim* could and did. We see this clearly in Leviticus xxiii. 10–20, where an omer (either sheaf or measure) of *reshith* is waved, while *bikkurim* are offered in the form of a meal-offering, loaves made of flour. We see it not less clearly in Leviticus ii. 11–16. The two earlier verses (11 f.) make it plain that *reshith* could not come up for a sweet savor on the altar: while in verses 14–16 *bikkurim* are constituents of an offering made by fire. Note, too, that *bikkurim* are "parched with fire, bruised corn of the first ear," while *reshith* was not treated in any way, as appears from the fact that honey could be offered as *reshith*.

Thirdly, as to the *materials*. *Reshith* is applied to oil, wine, corn, wool, fruits of the ground, honey, leaven, and dough (or meal?):[1] *bikkurim* in the legal texts relates only to that "which thou sowest in the field."[2] But even here it must be obvious that the *reshith* of cereals offered raw seven weeks before the beginning of wheat harvest was really a different material to *bikkurim* offered at the opening of the harvest as loaves or parched corn. Of the perfect distinctness of the two offerings throughout the Mosaic legislation there can be no reasonable doubt. It may be added that this fixes the meaning of Exodus xxii. 28 (29), which is rendered literally, "thy fullness and thy tear thou shalt not delay." Such terms could not apply to *bikkurim* of that which was sown in the ground. These latter are enjoined in Exodus xxiii. 16, 19; and consequently it will be seen that we find both offerings side by side in the so-called Book of the Covenant.

If now we turn to vegetable tithes, with which Wellhausen supposes the first-fruits to be at bottom identical, we shall see that these are differentiated from both *reshith* and *bikkurim* with the utmost clearness.

First, as to *date*. We have seen that *bikkurim* were offered at the opening of the harvest, and *reshith* of wheat seven weeks previously. Now of tithes we read: "thou shalt surely tithe all the increase of thy seed, that which cometh forth of the field year by year. And thou shalt eat before the Lord .....the tithe of thy corn, of thy wine, and of thine oil,"

[1] See Lev. ii. 11 f.; Num. xv. 17–21; xviii. 12; Deut. xviii. 4; xxvi. 1–10.

[2] It is otherwise in Numbers xiii. 20, where, however, the Samaritan text has a different word and in Nehemiah x. 36 (35), where the word is applied to the fruit of trees. This is only one more proof of the wide difference of date between the Pentateuch and the post-exilic period and the frequent misapprehensions of the true meaning of the laws after the exile.

etc. (Deut. xiv. 22 f.). Those were not operations that it lay within human power to perform at the *beginning* of the wheat harvest — still less seven weeks previously. Harvesting must have been completed before this command could be executed.

Secondly, as to *preparation and treatment*. For the present purpose it is sufficient to draw attention to Deuteronomy xiv. 22 ff. and xxvi. In the former of those two passages the tithe is regarded as the material of a festive meal, and also as something that might, if necessary, be sold and turned into money before being utilized. In the latter it forms the material for a meal for the Levites, etc., consumed *locally*. It need scarcely be said that these provisions are in glaring contrast with what we have seen as to *reshith* and *bikkurim*. In the case of the tithes there is neither wave-offering nor meal-offering. The *bulk*, too, differentiates tithes very sharply: for the provisions as to *reshith* and *bikkurim* obviously relate to small quantities.

Thirdly, as to *material*. "The tithe of thy corn, of thy wine, and of thine oil" necessarily includes much that could not fall within the conception of *bikkurim* of that which thou sowest in the field. Again, in the case of the corn — the only common material — we have to remember that the difference of date between the beginning and the end of the harvest would count for something. As to *reshith* we have already observed that the offering of corn was made seven weeks before the harvest opened, so that no confusion was possible here. It is true that in one passage we have *reshith* of wine and oil as well as of corn, but here the same principle applies. All offerings of *reshith* were (as the name itself implies) made of the *first* produce that came to hand. Tithes, on the other hand, were necessarily dependent on

the ingathering of the whole of the produce. In other words, the two offerings mark respectively the opening and the close of the agricultural season.

Once these distinctions are clearly grasped, it will be seen that it is sheer nonsense to speak of *reshith* as being taken from the tithe. One might as well say that January is taken from December. But one other point remains for consideration. Why is it that the vegetable tithe is not mentioned in the Book of the Covenant ? No certain answer can of course be given, but it is to be remembered that the practice of tithing had been instituted long before the Mosaic age. It was Jacob, not Moses, who vowed to God a tithe of all that he should give him (Gen. xxviii. 22). No doubt the custom applied in the first instance, chiefly at any rate, to cattle — the main source of the patriarch's wealth — but the extension to crops was so natural that it may not have been felt necessary to incorporate any reference to the matter in the Book of the Covenant. First-fruits, on the other hand, were probably introduced into the religion of Israel for the first time by the provisions of Exodus. There is no ground for supposing that they were offered to Israel's God in patriarchal times, though of course the idea of an offering of first-fruits is common enough in other religions all the world over.

What has been said of pre-Mosaic tithing disposes of Wellhausen's trouble as to animal tithes.

"It is absolutely astounding that the tithe which in its proper nature should apply only to products of definite measure, such as corn and wine and oil (Deut. xiv. 23), comes to be extended in the Priestly Code to cattle also, so that besides the male firstling, every tenth head of cattle and of sheep must also be paid to the priests. This demand . . . . first occurs as a novel in Lev. xxvii. 32 (1 Sam. viii. 17)" (p. 157).

In point of fact the animal tithe dated from the time of

Jacob. The animals were not to be given to the priests, nor is there any command to bring them to the religious capital: and the provisions of Leviticus xxvii. 32 merely provide for the animals being "holy," and not being redeemed. A "holy" animal was withdrawn from ordinary use and sacrificed. In the absence of any command to bring it to the capital it could presumably be sacrificed locally in the pre-exilic period at lay altars of earth or unhewn stone.

With regard to vegetable tithes I have treated of these elsewhere,[1] and will not here repeat myself.

There is but one other point to notice in this division of the chapter. On page 159 we read: "there is a poll-tax, which is not indeed enjoined in the body of the Priestly Code, but which from the time of Nehemiah x. 33 [32] was paid at the rate of a third of a shekel, till a novel of the law (Exod. xxx. 15) raised it to half a shekel." As I have shown before, Exodus deals only with the census, the half shekel being a ransom; and, consequently, in its original meaning the passage has nothing on earth to do with any annual poll-tax (which was quite independent of any census). Here again interpretations and inferences designed to meet post-exilic needs cannot override the plain meaning of the law in a historical inquiry.

II.

In discussing the question of land it will be best to begin by noting the influence of one of our old friends — the confusion between the two kinds of altars.

"Originally the altars were asylums (Exod. xxi. 14; 1 Kings ii. 28), some in a higher degree than others (Exod. xxi. 13). In order not to abolish the asylums also along with the altars, the Deuter-

[1] Churchman, September, 1906, pp. 548 f., 554 f.; cp. Murray's Illustrated Bible Dictionary, *s. v.* "tithe."

onomic legislator desired that certain holy places should continue as places of refuge. . . . The Priestly Code adopts the arrangement. . . . But as all these asylums are at the same time priestly and Levitical cities, it is an obvious conjecture that these also in like manner arose out of old sanctuaries" (p. 162).

Mark how subtly the confusion has here done its work. Ignore the distinction between the hornless lay altars of Exodus xx. 24–26 and the single lawful horned altar of the religious capital, and the attributes of the latter can be attributed to the former. Then every lay altar of which we read becomes an asylum, and a wonderful piece of history that never happened can be constructed on this foundation. Yet 1 Kings ii. 28, with its reference to the horns, shows quite clearly what contemporaries understood, and proves that such altars as those of Exodus xx. 24–26 could not give asylum: for no partisan of Wellhausen has yet been able to show how either loose earth or stone that would be defiled by the swinging of a tool on it could without such defilement be made to yield horns. With regard to Exodus xxi. 13 f. the meaning is plain enough. The murderer was to be taken — as Joab was — even from the altar of the religious center: the homicide who was merely guilty of something like manslaughter was to have appointed for him (as actually happens in Numbers and Deuteronomy) a place of refuge. It is at this that 2 Samuel xiv. 14 glances. The idea that the Deuteronomic legislator desired something "in order not to abolish the asylums also along with the altars" is due to the failure to discriminate between objects which no eye-witness could possibly have confused.

Turning now to the other points in order, we find that Wellhausen first objects that, in a mountainous country like Palestine, the land could not be geometrically portioned off in the method contemplated by Numbers xxxv. (p. 159).

Here the answer of Van Hoonacker is extremely able and convincing: "As to the way in which the measurements were to be carried out in the mountainous country of Palestine, the legislator doubtless knew what method was usually employed. Besides we are free to believe that he only gives these figures as approximate indications."[1] Wellhausen next raises the following objection:—

". . . . Besides, from the time of Joshua there is not a historical trace of the existence of the Levitical cities. Quite a number of them were in the days of the judges and down to the early monarchy still in the hands of the Canaanites, — Gibeon, Shechem, Gezer, Taanach; some perhaps may even have so continued permanently. Those on the other hand which passed into possession of the Israelites at no time belonged to the Levites. Shechem, Hebron, Ramoth, were the capital cities of Ephraim, Judah, and Gilead: and Gibeon, Gezer, Heshbon were in like manner important but by no means ecclesiastical towns. In the Deuteronomic period the Levites were scattered throughout Judah in such a manner that each locality had its own Levites or Levite; nowhere did they live separated from the rest of the world in compact masses together, for they made their living by sacrificing for others, and without a community they could not exercise their calling. Some indeed possessed land and heritage; such were at an earlier period the Silonic family at Gibeath-Phineas, Amaziah at Bethel, and Abiathar at Anathoth, and at a later period Jeremiah, also at Anathoth. But Anathoth (for example) was not on that account a priestly city in the sense of Josh. xxi.; Jeremiah had his holding there as a citizen and not as a priest, and he shared not with the priests but *with the people* (xxxvii. 12). As a tribe Levi was distinguished from the other tribes precisely by holding no land, and its members joined themselves to the settled citizens and peasants, for the most part as dependent inmates (Deut. x. 9, xviii. 1)" (p. 160).

In reply, the first point to note is that there are traces of Levitical cities in the history. Amaziah of Bethel falls out of account because, as we are told in 1 Kings xii. 31, Jeroboam had made priests of non-Levitical families. But Anathoth is an absolutely clear case (1 Kings ii. 26; Jer.

[1] Sacerdoce lévitique, p. 433.

i. 1; xxxii.), and the fact that after an invasion we find that Jeremiah is stated to have gone forth to receive his portion in the midst of the people in no wise affects its importance. What precisely the phrase refers to — whether the reclaiming of the patrimonial property at Anathoth or the obtaining of some land that had been rendered vacant by the invasion — is not perhaps as clear as it might be. But it is plain from the other passages that, before this invasion, priests, who, on the Wellhausen theory, should have been entirely landless, in fact owned land at Anathoth. Jeremiah i., with its reference to the *priests* that were at Anathoth, is particularly important from this point of view. The plural "priests" shows that we are not dealing with the case of a single individual. Similarly with Beth-shemesh. In 1 Samuel vi. 13–15 we have the clearest indications of the presence of Levites.[1] Again, in 2 Samuel xx. 26, Jattirite appears to be the right reading, and the fact that David had a Jattirite as priest points to his Levitical origin.[2]

Thus we have traces in the history of three Levitical cities. Further, Deuteronomy itself recognizes patrimonial property on the part of the Levites; for it expressly speaks of this (xviii. 8) and sees in it nothing inconsistent with the fact that Levi had no portion or inheritance, i.e. no proper tribal lot. It seems tolerably obvious that if Deuteronomy regards the two things as consistent, there can be no reason why other parts of the Pentateuch should not do the same. In point of fact, the total area of the whole forty-eight cities would have amounted to less than sixteen miles. When we remember that the family of Aaron alone received thirteen out of the forty-eight, it will appear that the remaining

[1] On the text, see *supra*, pp. 266 f.

[2] On the whole subject, see *supra*, No. 20, p. 261, and *passim*.

thirty-five did not form a very extensive territory for a whole tribe. Of the question of the diffusion of the Levites it is not necessary to speak here, for this was discussed at sufficient length in the article "Priests and Levites."

On the other hand, one true point is made in the above extract. It is the case that at sundry periods of history some of the Levitical cities were not in Levitical possession. No doubt, in the confused period from the invasion to the consolidation of the national power under the monarchy, much occurred of which we have no record. Probably some of the cities were not conquered in the first instance; but it is also quite possible that, during the course of the struggles in the time of the Judges, some cities may have changed hands. That the law was ever carried out in its entirety does not seem likely: that it was put into operation to some extent appears to be beyond dispute. The quantum of disobedience must remain uncertain, because our data are insufficient; but yet there is one other consideration to which attention should be drawn in this connection — I mean the evidence that some of these places were centers of worship. The great high place at Gibeon provides a ready example (1 Kings iii. 4). It can scarcely be supposed by anybody that this was unserved by priests. It is not necessary to discuss the Levitical character of the priesthood once more: that was fully considered in the article "Priests and Levites," to which reference has already been made so often.

On the other hand, Wellhausen's conjecture that all the Levitical cities were ancient sanctuaries (p. 162) suggests two more probable conjectures. One is that in some cases such cities might have been assigned to the Levites in the hope that members of the tribe which was most intimately associated with the worship of Israel's God would prove the

most efficient guardians of the purity of religion in towns where the ancient associations rendered it particularly liable to danger. The other is that at times when confused political circumstances made the lawful pilgrimage difficult or impossible it would be just these very Levites who as hereditary priests would feel the strongest temptation to practise their professional craft at local centers. But it must be realized that these are mere conjectures, and that the paucity of our materials makes it impossible to speak with any certainty on such points.

To return to our analysis of Wellhausen's theories. He writes:—

". . . . it [i.e. the execution of the law. H. M. W.] was not in truth within the power of man, and cannot be seriously demanded in the Priestly Code itself, which contemplates a purely ideal Israel, with ideal boundaries, and leaves the sober reality so far out of sight that on archæological grounds it never once so much as mentions Jerusalem, the historical capital of the priests" (p. 160).

Now here we have another piece of confused thinking. Wellhausen has failed to understand the difference between a priestly city (in which priests have certain special rights of property) and a city in which priests happen to dwell. There are Jewish priests to-day in, e.g., London, Paris, New York. Some of them may even own houses, etc., in these places; but that does not make these cities priestly cities. And so it was with Jerusalem. It was undoubtedly the religious capital, but it never was a priestly city in the same sense as, e.g., Anathoth. This, therefore, provides no argument whatever in favor of the Wellhausen theory.

Lastly, Wellhausen thinks that "the immediate starting-point.....for this territorial donation to the Levites is perhaps to be sought in Ezekiel, in the picture of the future

Israel which he draws at the close of his book" (pp. 162 f.). And he proceeds to discuss the prophet's land scheme. Here Van Hoonacker's brilliant and convincing reply must be quoted:—

"Strictly we could ask . . . . whether Ezekiel did not found himself on the description of the camp of the Israelites in the desert. It is only too manifest that the division and apportionment of the territory as presented in ch. xlviii. of the prophet are scarcely inspired by practical necessities, that they have a very pronounced character of ideal vision; and as 'no fancy is pure fancy'[1] we ought also to find the elements which are at the basis of Ezekiel's vision. The tents of the tribe of Levi ranged around the tabernacle explain themselves in the priestly code; we may doubt whether the Levites, deprived of territory (Ezk. xliv. 28) and nevertheless grouped on a common territory, in the conditions described in Ezk. xlviii. explain themselves with equal facility. A camp is readily conceived on the pattern of a chessboard, but not the country of Canaan. We need not stop there. It is in fact certain that Ezekiel here has in view the protection of the holiness of the temple from all profanation; and in the realm of the ideal, the means are appropriate to the end."[2]

Thus in this chapter, as elsewhere, Wellhausen's theories of historical reconstruction are seen to be of the most baseless and impossible character.

[1] A quotation from Wellhausen; see Prolegomena, p. 161.

[2] Sacerdoce lévitique, pp. 425 f.

XXIII

THE LEGISLATIONS OF ISRAEL AND BABYLONIA

[A paper read before the Victoria Institute on March 15, 1909.]

In the year 1902, M. de Morgan discovered a black diorite stele on which were inscribed "the judgments of righteousness which Hammurabi the mighty king confirmed." Some thirty-five sections had been erased, apparently with a view to engraving a fresh inscription on the portion of the monument they occupied, but the rest of the Code was practically intact. While there are many points in the translation, history, and interpretation on which uncertainty must long prevail, we have sufficient materials to form some general conceptions of the legal civilization of the subjects of "the mighty king."

The subject-matter of jural laws is human life in its social aspect. It deals with the acts and omissions of human beings in their relation to one another; and, as a necessary result, the influences that mold any given legislation are both manifold and diverse. Nowhere does the student realize more vividly that the roots of the present lie deep in the past; and, accordingly, the first task in taking a general view of the Babylonian code must be to distinguish the primitive ideas that Hammurabi and his contemporaries brought from a remote past. We must next consider the geographical and other conditions of their task, the means of which they could dispose, the nature of the problem with which they were faced, the state of mental development to which they had attained; and we shall then be in a position to form some conception

of their views and policy. In other words, we must glance successively at the Ideas the nation had inherited from its Infancy, at its Geographical Environment and Historical Circumstances, at the Conditions and Tasks of its Daily Life, and at the Quality and Development of its Intellect. Only when that is done can we hope to see something of its Soul. In the case of the Babylonian code, the occupations of the people and its history were almost entirely determined by the geography, and can, for the most part, be dealt with under that head.

In dealing with the historical portion of our subject, nothing is possible, in the present condition of our knowledge, beyond a few generalities. The legal antecedents of the Code are too largely unknown, and it would be quite impossible to attempt to separate the elements that are due to the Sumerians from those contributed by the Babylonians. But we have seven sections belonging to some Sumerian legislation, and these are sufficient to show that the Code of Hammurabi merely represents a particular stage in an orderly historical evolution. Thus we read in the Sumerian laws: "If a wife hates her husband, and has said, 'You are not my husband,' one shall throw her into the river."[1] This penalty of throwing into the river remains in the case of the undutiful wife of Hammurabi's Code,[2] though there the law is somewhat more elaborate, and testifies to more advanced legal reflection. Evidently the two enactments rest on the same theory of punishment. Again, the Sumerian laws provide that, "if a husband has said to his wife, 'You are not

[1] Johns, Babylonian and Assyrian Laws, p. 42.

[2] "If she has not been economical but a goer about, has wasted her house, has belittled her husband, one shall throw that woman into the waters" (sect. 143).

my wife,' he shall pay half a mina of silver."[1] Precisely the same idea of compensating the wife for a divorce reappears in the Code; but there the amount is either a sum equal to the bride-price or, if there was no bride-price, one mina in the case of well-to-do persons, one-third of a mina in the case of a plebeian (sects. 138–140). The fundamental principle is identical, but social inequalities have led to some differentiation in detail.

But if our present knowledge of Babylonian history enables us to do little to trace the antecedents of the Code, the same cannot be said of the comparative method. A few examples will show how this elucidates the provisions of the legislation, and illuminates their *Vorgeschichte*.

"There is no system of recorded law," wrote Sir Henry Maine, "literally from China to Peru, which, when it first emerges into notice, is not seen to be entangled with religious ritual and observance."[2] The Code of Hammurabi, to a very great extent, belongs to a later stage of development than that contemplated in this dictum; and this, by itself, is sufficient to mark it as a fairly mature system. Yet slight remains of the earlier state of affairs may be traced in provisions for ordeals (sects. 2, 132), and oaths as methods of proof (sects. 20, 23, 103, 120, 206, etc.). In such cases this survival from ancient ideas has, however, been worked into the system to fulfil a definite purpose. There are parallels all the world over, but perhaps the best short explanation that can be quoted is to be found in a few paragraphs of the late Indian law-book known as "Nârada." Here the principle underlying the supernatural methods of trials and the object of their retention in relatively late times are very clearly brought out:—

[1] *Op. cit.*, p. 42.
[2] Early Law and Custom, p. 75.

"28. Proof is said to be of two kinds, human and divine. Human proof consists of documentary and oral evidence. By divine proof is meant the ordeal by balance and the other (modes of divine test). 29. Where a transaction has taken place by day, in a village or town, or in the presence of witnesses, divine test is not applicable. 30. Divine test is applicable (where the transaction has taken place) in a solitary forest, at night, or in the interior of a house, and in cases of violence, or of denial of a deposit."[1]

On paragraph 29, Asahâya, a standard Indian commentator, remarks: "In the case of all those transactions which take place during daytime, eye- and ear-witnesses are present. Documentary evidence, likewise, is generally available in such cases. Therefore, divine proofs should not be resorted to. Where a transaction is known to have taken place in the presence of witnesses, divine proof is also not applicable." Similarly, on paragraph 30, he writes: "In all the places and occasions mentioned in this paragraph human proof is not applicable, wherefore divine test has to be resorted to."

The sections of the Hammurabi Code conform to these principles.

More important for our present subject are the conceptions of talion, sympathetic talion, and so on. The idea of talion is world-wide. The wrong-doer is to suffer precisely the same injury as he has inflicted. It belongs to primitive ideas; and, as society advances, it is always mitigated, in whole or in part, by some system of pecuniary compensation. Very frequently, distinctions are drawn between the members of different classes, and for our ultimate purposes it is important to note that this is the case with Hammurabi. For instance, we read:—

"If a man has caused the loss of a gentleman's eye, one shall cause his eye to be lost.

"If he has shattered a gentleman's limb, one shall shatter his limb.

[1] Nârada, Introduction, ii. 28–30.

"If he has caused a poor man to lose his eye or shattered a poor man's limb, he shall pay one mina of silver" (sects. 196–198).

Such rules not only show us the principle of talion in full operation, they also point very clearly to the division of the people into well-marked social strata, and to the conception of justice that such divisions had fostered. But while there is nothing uncommon in these provisions, the same cannot be said of the provisions for slaying the child of a guilty or negligent parent for the parent's offense. For example:—

"If a builder has built a house for a man, and has not made strong his work, and the house he built has fallen, and he has caused the death of the owner of the house, that builder shall be put to death.

"If he has caused the son of the owner of the house to die, one shall put to death the son of that builder" (sects. 229 ff.).

These enactments are believed to be unique, and it will be necessary to return to them when we consider the mental element in the legislation. For the moment we are concerned with them only as showing that the principle of talion was retained to the fullest extent.

Sympathetic talion is also much in evidence in the Code. The idea is sometimes that punishment should be inflicted on the offending member, and sometimes that the instrument of the offense should also be the instrument of the punishment. Numerous examples come from all over the world. One of those given by Post is worth quoting. A German forest ordinance of the year 1546 provides that anybody felling a tree shall have his right hand hewn off with the axe he used in committing the offense.[1] Here we have both branches of the theory exemplified simultaneously. But more frequently a legal rule illustrates one or other branch. Thus we find

[1] A. H. Post, Grundriss der Ethnologischen Jurisprudenz, vol. ii. p. 239, note 3.

Hammurabi ordaining, e.g., that the hands of a man who strikes his father shall be cut off (sect. 195), while the man who comes to extinguish a fire, and "lifts up his eyes to the property of the owner of the house, and takes the property of the owner of the house," is to be "thrown into that fire" (sect. 25).

Other provisions that show the influence of early ideas are those relating to theft. In treating of the ordinary procedure in early societies all over the world, Dr. Post writes as follows:—

"He in whose possession the stolen article is found is *prima facie* presumed to be the thief. But if he pleads that he had bought the article or had acquired it by some other honest means from another, he must name that other person and conduct the owner of the stolen property to him. The person so vouched can in turn name another person whom he vouches as his predecessor in title, and so the enquiry proceeds until it ends with somebody who cannot vouch a predecessor in title. This person is then regarded as the thief. This procedure shows many variations in detail."[1]

Similarly in Nârada we read that "where stolen goods are found with a man, he may be presumed to be the thief" (xiv. 18).[2] It will be observed that this outline is reproduced in sections 9 ff. of the Code.

With regard to the punishments for theft, the Babylonian system conforms here also to well-known types. The early form of remedial procedure in cases of theft is private violence. When society interposes to prevent self-redress or blood-feuds, it endeavors to bribe the aggrieved party not to take the law into his own hands.

"In the infancy of society," writes Mr. Post, "it is an important object to the legislator to induce an injured person to have recourse to the public tribunals instead of righting himself, that is to say,

[1] *Op. cit.*, vol. ii. p. 586.
[2] Cp. vii. 4; Manu viii. 201.

constituting himself both lawgiver and judge. That such was really the motive of the legislator we have historic evidence in the declaration of Rotharis, ruler of the Langobards, A.D. 643. He gives the relatives of the slain their election between the primitive vengeance for blood (feud or vendetta), and a composition or pecuniary fine (wergeld or poena) to be recovered by action before the public tribunals. He says that he fixes a high fine in order to induce plaintiffs to forego their right of feud; and implies that he would gladly have abolished the right of feud or private war, but felt that it was too deeply rooted in the habits of his tribe to be extirpated by legislation."[1]

It is probably in the light of such ideas as these that we ought to contrast the threefold restitution imposed by section 106 on the agent who takes his principal's money with the tenfold restitution that is to be exacted from the dishonest shepherd by section 265. Probably the rule that concerns the shepherds had its first origin in a far earlier and less orderly state of society than that which was called upon to decide on pecuniary transactions involving the relationship of principal and agent. On the other hand, it must be noted that this influence alone may be insufficient to account for all the penalties in cases of theft and the allied subjects. It explains the severity of the punishments for theft and many of the penalties involving manifold restitution; but, when we read in section 107 that in the converse case the dishonest principal is to pay not a threefold but a sixfold penalty to his agent, we seem to see traces of a moral judgment on the relative heinousness of offenses by principals against agents and agents against principals. It must, however, be noted that this is a question of correct translation.

In another department of law the Code exhibits the influence of early ideas greatly weakened. The *patria potestas*, the absolute power of the head of the family over his chil-

[1] On Gaius iii. 189 ff.

dren, has been greatly lessened and reduced by the time of Hammurabi. Yet there are sections (sects. 168 ff.) dealing with "cutting off from sonship" (a phrase as to the meaning of which it would be unwise to hazard a guess without knowledge of the original), and with the penalties for undutiful sons (sects. 192, 193, 195). There is, moreover, a section (sect. 7) enacting that "if a man has bought from the hand of a man's son, or of a man's slave, without witness or power of attorney, or has received the same on deposit, that man has acted the thief, he shall be put to death." The proprietary restrictions of the Roman *filius familias in potestate* are at once recalled by this section, though it must be confessed that this may only be due to the translation. The following passages from Nârada may, however, be quoted: "In the same way, the transactions of a slave are declared invalid, unless they have been sanctioned by his master. A slave is not his own master. If a son has transacted any business without authorization from his father, it is also declared an invalid transaction. A slave and a son are equal in that respect" (i. 29 ff.). And again: "If a man buys from a slave who has not been authorized (to sell) by his master, or from a rogue, or in secret, or at a very low price, or at an improper time, he is as guilty as the seller" (vii. 3).

Turning now to the geographical influence, we may note that we are dealing with a country of great rivers. Hence it is natural to find rules which are readily paralleled from the river civilization of India. "For a long passage," says Manu, "the boat hire must be proportioned to the places and time." And he adds a remark which is characteristic of the geography of his country: "Know that this (rule refers) to (passages along) the banks of rivers; at sea there is no settled (freight)" (viii. 406). Hammurabi proportions his

boat-hire to the times and class of vessel. Characteristically enough he fixes the exact daily amount (sects. 275–277). Again, when Hammurabi provides that where a boatman has been careless and grounded the ship, or has caused what is in her to be lost, he shall render back the ship which he has grounded and whatever in her he has caused to be lost (sect. 237), we may compare Manu: "Whatever may be damaged in a boat by the fault of the boatmen, that shall be made good by the boatmen collectively (each paying) his share. This decision in suits (brought) by passengers (holds good only) in case the boatmen are culpably negligent on the water; in case of (an accident) caused by (the will of) the gods, no fine can be (inflicted on them)" (viii. 408–409). In this passage, "whatever" is referred by some commentators to "merchandise," by others to "luggage."

The geography of the country must be held responsible for other provisions.

"On Hammurabi's accession," says Mr. King, "he first devoted himself to the internal improvement of his territory. In the past both Babylon and Sippar had suffered from floods, and the recurrence of these he sought to diminish by erecting dams and cutting canals."[1]

"It was an alluvial plain," Professor Sayce writes of the country, "sloping towards the sea and inundated by the overflow of the two great rivers which ran through it. When cultivated it was exceedingly fertile, but cultivation implied a careful regulation of the overflow, as well as a constant attention to the embankments which kept out the waters, or to the canals which drained and watered the soil.

"The inhabitants were, therefore, necessarily agriculturists. They were also irrigators and engineers, compelled to study how best to regulate the supply of water, to turn the pestiferous marsh into a fruitful field, and to confine the rivers and canals within their channel. Agriculture and engineering thus had their natural home in Babylonia, and originated in the character of the country itself. The neighborhood of the sea and the two great waterways

[1] Encyclopædia Biblica, col. 445.

which flanked the Babylonian plain further gave an impetus to trade. The one opened the road to the spice-bearing coasts of Southern Arabia and the more distant shores of Egypt; the other led to the highlands of Western Asia. From the first the Babylonians were merchants and sailors, as well as agriculturists. The 'cry' of the Chaldeans was 'in their ships.' The seaport of Eridu was one of the earliest of Babylonian cities, and a special form of boat took its name from the more inland town of Ur. While the population of the country devoted itself to agriculture the towns grew wealthy by the help of trade."[1]

Thus the geography, combined with the policy of Hammurabi, must be held directly responsible for such provisions as those of sections 53–56, which deal with the liability of those who neglected to strengthen their bank of a canal with injurious results to other people's property, or had caused damage through careless manipulation of the water, and again for the special provisions protecting watering machines as well as other agricultural instruments (sects. 259 ff.). Special rules of this latter type are not at all uncommon,[2] and need no explanation. It need scarcely be added that the Code testifies clearly to the nature of the products of the country in which it originated — corn, sesame, dates, etc. Indirectly the geography must also be held responsible for the rules necessitated by the great commercial and economic development, and for the history which resulted in so great a royal power. But before passing to that branch of the subject something may be said about the land laws and certain other topics that may conveniently be disposed of at the same time.

Where agricultural land is leased for payments in kind, it becomes to the landlord's interest to compel the cultivator to do his duty in tilling the land energetically by forcing him to pay what the land can be made to bear, even if he has not in

[1] Babylonians and Assyrians, pp. 8 ff.

[2] See Post, Grundriss, vol. ii. pp. 421–423.

fact cultivated it. The Code contains provisions to this effect (sects. 42 ff.), which again find a singularly close parallel in India — this time from Âpastamba: "If a person who has taken (a lease of) land (for cultivation) does not exert himself, and hence (the land) bears no crop, he shall, if he is rich, be made to pay (to the owner of the land the value of the crop) that ought to have grown" (ii. 11. 28. 1). On this Bühler writes: "This Sutra shows that the system of leasing land against a certain share of the crops, which now prevails generally in Native States, and is not uncommon in private contracts on British Territory [i.e. in India. H. M. W.], was in force in Âpastamba's times."[1]

Like all other ancient legislators who were concerned with peasant landholders, Hammurabi had to face the question of giving some relief to the poor peasants who had mortgaged their holdings and were prevented by bad seasons from meeting their obligations. The first section which deals with this (sect. 48) is so humane that it should be quoted *in extenso:* "If a man has a debt upon him and a thunderstorm ravaged his field or carried away the produce, or if the corn has not grown through lack of water, in that year he shall not return corn to the creditor, he shall alter his tablet. Further, he shall not give interest for that year."

The following sections (sects. 49–52) appear to be conceived in a similar spirit, and to provide relief for those who handed over their fields to their creditors for cultivation. So far as an opinion can be formed, they seem to embody well-devised and equitable rules for the protection of the borrower from oppression by the usurer.

But if Babylonia was a land of rivers and tilth, it was also a country of pastures and live stock. Hence the Code con-

[1] Sacred Books of the East, vol. ii. p. 166.

tains provisions for the remuneration of herdsmen, for their responsibility for the protection of their charges, and for their liability for injury inflicted by them on the property of others. Owing to the similarity of conditions, we once more find admirable parallels to all these in the Indian books.

Thus with section 261[1] we may compare Nârada vi. 10: "For (tending) a hundred cows, (a heifer shall be given to the herdsman) as wages every year; for (tending) two hundred (cows), a milch cow (shall be given to him annually), and he shall be allowed to milk (all the cows) every eighth day."

Similarly, when we read the sections relating to the liability of shepherds,[2] we are reminded of Indian provisions. Thus Manu writes:—

"During the day the responsibility for the safety (of the cattle rests) on the herdsman, during the night on the owner, (provided they are) in his house; (if it be) otherwise, the herdsman will be responsible (for them also during the night). . . .

"The herdsman alone shall make good (the loss of a beast) strayed, destroyed by worms, killed by dogs or (by falling) into a pit, if he did not duly exert himself (to prevent it).

"But for (an animal) stolen by thieves, though he raised an alarm, the herdsman shall not pay, provided he gives notice to his master at the proper place and time.

"If cattle die, let him carry to his master their ears, skin, tails, bladders, tendons, and yellow concrete bile, and let him point out their particular marks.

"But if goats or sheep are surrounded by wolves and the herdsman does not hasten (to their assistance), he shall be responsible for any (animal) which a wolf may attack and kill.

"But if they, kept in (proper) order, graze together in the forest,

[1] Section 261 runs as follows: "If a man has hired a herdsman for the cows or a shepherd for the sheep, he shall give him eight Gur of corn per year."

[2] Sections 263–267, especially the last two, providing that where animals are lost through an act of God, or a lion's attack, the loss is to fall on the owner, while the shepherd is liable for losses through negligence.

and a wolf, suddenly jumping on one of them, kills it, the herdsman shall bear in that case no responsibility" (viii. 230, 232–236).[1]

And with sections 263, 267, we may also compare Âpastamba ii. 11. 28. 6: "If (a herdsman) who has taken cattle under his care, allows them to perish, or loses (them by theft, through his negligence), he shall replace them (or pay their value) to the owners."

Rules of this kind spring from the very nature of the contract between an owner and his shepherd. The whole object of employing a shepherd is to have a guardian of the sheep who shall be responsible for their safe custody. Accordingly he must always be liable for loss caused through his own negligence or want of skill. On the other hand, in cases where loss occurs through some cause that is beyond his control and that could not have been prevented through any exercise of care or skill, e.g., *vis major* (Hammurabi's lion), act of God, inevitable accident, the principle *res domino perit* necessarily finds application in the absence of agreement to the contrary.

The kindred question of the liability for damage done by sheep is dealt with by Hammurabi in sections 57 ff., making the shepherd responsible for the depredations of his sheep on green corn. An Indian parallel from Gautama may be cited:—

"If damage is done by cattle, the responsibility falls on the owner. But if (the cattle) were attended by a herdsman (it falls) on the latter. (If the damage was done) in an unenclosed field near the road (the responsibility falls) on the herdsman and on the owner of the field. Five mâshas (is the fine to be paid) for (damage done by) a cow, six for a camel or a donkey, ten for a horse or a buffalo, two for each goat or sheep. If all is destroyed (the value of) the whole crop (must be paid and a fine in addition)" (xii. 19–26).[2]

[1] See, further, Nârada vi. 11–17.

[2] Cf., also, Manu viii. 239–241.

It will be seen that, with some differences of detail, the principle is substantially the same.

Another department of the law may be traced to the influence of the geographical situation of the people and its consequent economic development acting on marriage customs that in themselves are not exceptional. Gifts by bridegrooms to the parent and relations of the bride, and dowries given by the father on his daughter's marriage are common to many races. In Babylonia, owing to the general wealth, these gifts became of great importance and developed a number of rules relating to their disposition in various events. For example, the marriage portion, being the wife's, will generally follow her in the event of a dissolution (sects. 138, 142, 176, etc.). It descends to her children, not to the children of another wife, and so on (sects. 167, 173, 174, etc.).[1] These rules call for no more than passing mention here.

The geography of Babylonia was probably the chief influence to which the formation of a strong centralized monarchy may be attributed; and, accordingly, it will be in place at this stage to notice the group of sections dealing with certain royal officials called by Mr. Johns gangers and constables. The property which such officials enjoyed by virtue of their office is rendered inalienable (sects. 35–38). On the other hand, they are subjected to special provisions to secure their efficient attendance to their duties. The details are not at present clear in translation; but the general purport of the rules appears sufficiently. Hammurabi enacts that, for the benefit of the state, these men shall enjoy special rights and be subject to special duties. Clearly he protects their property in order to provide for efficient public service. Similarly the

[1] An excellent note on these, by Professor E. Cuq, will be found at the end of Father V. Scheil's La Loi de Hammourabi.

law at present in force in this country contains special provisions as to the effect of a bankruptcy on the pay of an officer of the army or navy or a civil servant.

The marriage laws give effect to two or three principles. Generally the marriage tie is protected, but where the husband has been taken in captivity, poverty is recognized as justifying the wife in entering the house of another (sect. 134). The wife is expected to be economical, attend to her household, and be dutiful to her husband (sects. 142 ff.). The man is regarded as having a right to obtain children. Various provisions regulate divorce, and would apparently act in general as checks on the exercise of that power.

Of this and many departments of the law it may be said generally that there is evidence of that common sense without which no code of this length could possible have been devised for a people of the material civilization of the Babylonians, and that they further testify to the well-developed economic instincts of the people. Ethical considerations play only a very small part.

We have seen something of the legal machinery that was inherited by the contemporaries of Hammurabi from far more primitive times. It is necessary, also, to notice the machinery of a modern type and the use that was made of it. The general diffusion of writing made the duly authenticated deed the best proof of commercial transactions. We find provisions in the Code which appear to be inspired by the same motive as the English Statute of Frauds.[1] It was, no doubt, "for prevention of many fraudulent practices," that the Babylonian legislator enacted (sects. 104 ff.) that "a sealed memorandum of the money he has given to the merchant" should be required in certain disputes between "merchants"

[1] 29 Car. II. c. 3.

and "agents," and that the depositor who effects his deposit without "witness and bonds" should have no remedy if the depositary denied his title (sects. 122 ff.). The legal statesmanship of such provisions is beyond question.

Other legal tools of ancient Babylonia find analogies in modern English law. For example, a father making a settlement of a field or a garden on a "lady, a votary or a vowed woman," could, if he so desired, give her an absolute testamentary power over the property, to the exclusion of her brothers (sect. 179). On the other hand, he might refuse to do this. In that case she had only a life interest without power of alienation, and even this interest was subject to a right on the part of her brothers to undertake the cultivation of the property and pay her corn, oil, and wool, according to the value of her share. Indeed, speaking generally, it may be said that the rules of succession and settlements are such as usually spring up in communities in an advanced economic condition.

In another branch of the law the machinery adopted is of a less modern and permanent type. The Babylonian legislator appears to have sought to prevent disputes as to the remuneration for services rendered by fixing the amount by statute, and accordingly we find the fees for the work of doctors, veterinary surgeons, builders, etc. These rules are usually flanked by others, providing more or less savage punishment in the event of the contractor's showing want of care or skill. Thus, in the case of certain unsuccessful operations, the doctor is to lose his hands (sect. 218) if his patient is a "gentleman." This doctrine of the legal responsibility of a physician for failure may be paralleled from India. Thus we read in Vishnu: "Also, a physician who adopts a wrong method of cure in the case of a patient of high rank (such as a relative

of the king's) [shall pay the highest amercement]; the second amercement in the case of another patient; the lowest amercement in the case of an animal" (v. 175–177). Similarly Manu says: "All physicians who treat (their patients) wrongly (shall pay) a fine; in the case of animals, the first (or lowest); in the case of human beings, the middlemost (amercement)" (ix. 284). An Indian commentator on this latter passage adds: "But this refers to cases when death is not (the result of the wrong treatment); for if that is the case the punishment is greater." It is interesting to note the gradation of ranks, leading in India, as in Babylonia, to differential treatment of the physician's failure. Want of skill or success is more heinous when the victim is great than when he is little.

Of the intellectual element in the law we have already seen something, but an example may be taken of the way in which a principle relating to property is worked out. We may select for this purpose the aphorism *res domino perit* — if property is destroyed, the loss falls on the owner. In the simplest cases the principle is so obvious that no question can possibly arise. If I accidentally drop my handkerchief into the fire, I am the only person on whom the loss can fall. The same holds good if my corn or my sheep are destroyed by a storm or a lion while in my custody. But not all the cases that may arise are as clear as these. For instance, A's field is being cultivated by B, who in return gives him a proportion of the produce. If the calamity occurs to that which remains in the field after A has received his proportion, what is to be done? Here Hammurabi rightly decides that the ownership is definitely fixed at the time of the receipt. Therefore, the produce remaining in the field had become B's, and B's only. Consequently it is on B alone that the loss must

fall (sect. 45). If, on the other hand, A had not received his share, the two are joint owners, and the loss must be divided "according to the tenour of their contract" (sect. 46), i.e. proportionately, as Mr. Pinches renders it. In each case the loss falls on the owner. Again, suppose that A's slave dies of purely natural causes while in the house of B, who has lawfully distrained on him. Here again *res domino perit;* the owner must bear the loss (sect. 115). Or, if B has hired A's ox, and "God has struck it, and it has died," or again, in the case already cited, if, by the act of God or *vis major,* A's sheep have perished while under the charge of C, a shepherd, the rule is the same (sects. 249, 266). On the other hand, in some cases of purchase there was a right of rescission within a given time (sect. 278), and here the principle is subject to this rule. The adoption and application of principles of this sort are necessary incidents of the growth to maturity of any legal system, but they show the sound sense and grasp that characterize certain portions of the Babylonian code.

On the other hand, nothing very satisfactory can be said of the general treatment of the intellectual elements in offenses. The limits of Babylonian reflection on the matter are only too clearly shown. The authors of the Code are usually willing to excuse anybody who acted under compulsion or under a misapprehension induced by another's fraud. For example, the agent who, while on a journey, is robbed by an enemy, is recognized as innocent (sect. 193), and so is the trader who has been deceived into wronging the owner of a slave (sect. 227). They go further, and recognize that the owner of a vicious ox should be punished only if he had reason to know that the animal was vicious, and had failed to take proper precautions to prevent its inflicting injury (sects. 250–252). They even realize that in a fight a

blow may be given that has unexpectedly grave results (sects. 206–208), and that in such a case the mental element must be taken into consideration in determining what the legal consequences of the action should be. Once more, in estimating a wife's conduct, they consider her character as evidenced by her past, and also her husband's treatment of her (sects. 42 ff.). But further than this they do not go. They do not realize in its entirety the maxim *Non est reus nisi mens sit rea*. Indeed, they often fall immeasurably below it. The builder who does his work carelessly or unskilfully or dishonestly, forfeits his life if the house kills the owner (sect. 229), though he certainly had no murderous intent. Still worse, if the collapse of the building results in the death of the owner's son, the innocent son of the builder is to be killed. In this case, at any rate, both mental element and overt act are lacking. No doubt much must be attributed to the primitive condition of legal reflection in Hammurabi's Babylonia. Yet these provisions are more barbarously unjust than any known legal rule of any primitive people. And so we come to the last branch of the Babylonian section of our inquiry with the question, What has the Code to tell us of the character and ideals either of its framers or of the nation for which it was intended? We have seen that it is the work of men whose intellectual powers are in some respects worthy of admiration; can the same be said of their legislative ideas?

The answer, however reluctantly given, must in the main be unfavorable.

In the first place, the Code is on the whole of a savage type. It is true that the comparative material fully explains the origin of the barbarous penalties that we have encountered; but it also does much to increase our wonder at finding

that penalties so cruel should have been retained in such numbers at so advanced a stage of material civilization. The extreme limit is reached when death is inflicted, by way of talion, not on the person actually responsible for the offense it is sought to prevent, but on his innocent child. Many legislators have punished the innocent with the guilty, or the innocent in mistake for the guilty; it was reserved for the Babylonians or those from whom they may have derived these rules to undertake knowingly and of set intent to punish the innocent in lieu of the guilty. No doubt the punishment was usually or always commuted. Not all offenders can have had children on whom could be inflicted the punishment prescribed by "the judgments of righteousness which Hammurabi the mighty king confirmed and caused the land to take a sure guidance and a gracious rule." Nevertheless, the sections remain on record to show the ideas of justice that were prevalent in ancient Babylonia and to illustrate the character of the people. And this savagery reappears in one penalty after another. Nowhere is the operation of the principle of talion limited to any degree.

Secondly, for good or for evil, the protection of property is the paramount object of the Code, to the exclusion of almost all other ideas. To some extent this is inevitable, and not at all remarkable. Every legal system designed for a people that has attained to some degree of economic maturity must necessarily be concerned with that which constitutes the main subject-matter of their daily occupations. But in Hammurabi's Code the interest in property leads to some regrettable principles. The penalties for theft are, in some cases, altogether excessive, as may be seen by comparison with the rules of the Romans — a people who were certainly not conspicuous for gentleness. When the Romans adopted mani-

fold restitution, their maximum penalty was fourfold. Hammurabi runs up to a thirtyfold payment. On the other hand, he recognizes the duty of the government to secure public safety. In the prologue to the Code, he boasts of himself as "the wise, the active one, who has captured the robbers' hiding-places, sheltered the people of Malkâ in (their) misfortune, caused their seats to be founded in abundance"; and to his credit be it said that his ideas of the duty of a government in this respect found legislative expression in sections 23 ff., which provide that where a man is robbed by a brigand, "the city and governor in whose land and district the brigandage took place shall render back to him" compensation if the brigand has not been caught. A similar view is found in India.[1]

Moreover, in two instances, other considerations are allowed to modify the claims of property: the peasant whose power of payment is destroyed by natural misfortunes enjoys the benefit of protection against the demands of the moneylender (sect. 48), and again the wife and child of a debtor recover their liberty after only three years' service to the creditor (sect. 117).

Thirdly, it may fairly be said that Hammurabi expects every man to do his duty, and holds that he ought to be properly remunerated for his work. With this object, we find numerous provisions dealing with the remuneration of various craftsmen and inflicting punishment for unsatisfactory work. A similar idea appears in the provisions that are inspired by the Babylonian theory of wifely duty. And this brings us to a fourth characteristic of the Code, its treatment of various trades and crafts. Hammurabi believed that he could best regulate by legislation matters that might have

[1] See Gautama x. 46–47; Vishnu iii. 66–67.

been left to contract or judicial discretion. Probably he knew the circumstances of his own age and country best, and was right in taking this course. At any rate, we have no materials which would justify us in blaming the grandmotherliness of his legislation.

Fifthly, the Babylonian conception of justice, like that of the Indian law-books, is fundamentally warped by the caste system. Throughout there is one law for the rich, another for the poor. The dignity of man was unknown in Babylonia.

It is probable, too, that the provision for drowning a wine merchant who makes the price of wine less than that of corn (sect. 108), though it sounds a little strange to our ears, is really a temperance enactment which should be noted with approval.

The highest ideals of the Code may be summed up very briefly. Hammurabi held that it was the duty of the "shepherd of the people" to make them dwell safely and prosperously. His ethics, his morality, his theory of legislation, in so far as they are not merely inherited from past ages, are alike economic.

On the other hand, it would appear that he did give his people strong and certain rule, with its attendant benefits; and it must be remembered that even inferior laws, if enforced rigorously and impartially, are greatly preferable in their practical consequences to a legislation that is not applied strongly and uniformly, even if the latter be superior on paper.

It is a misfortune for the posthumous reputation of the Babylonian king, that in our days, circumstances necessitate the comparison of his famous statute with the noblest monument of legislative idealism that history has produced. The

interest that is felt in Hammurabi's Code by the general public is largely due to the supposed possibility that it may have exercised some considerable influence on the law of Israel. The Babylonian system could far better stand a comparison with the law-books of India, the law of Imperial Rome, or the law of England in, say, the eighteenth century, than with the work of him whose labors were directed to teaching that "man doth not live by bread only, but by all that cometh out of the mouth of the Lord doth man live" (Deut. viii. 3).

In dealing with the second division of my subject, it is not my intention to answer those who maintain that Hebrew law was borrowed from or greatly influenced by the Babylonian system. Such a theory is so absolutely preposterous on the face of the legislations, that no comparative jurist could be found to defend it, and I should not be justified in wasting the time of this Society in discussions of this nature.[1] A word may, however, be given to the patriarchal customs evidenced by the book of Genesis. It is sometimes said that the patriarchs lived under the Code of Hammurabi. This result is attained by the familiar method of emphasizing such portions of the evidence as appear to support the theory while leaving out of account all the other relevant facts. For example, the Hebrew patriarch, like the Roman *pater familias,* exercised absolute powers of life and death over the members of his household, including his children and his daughters-in-law. The Code of Hammurabi, on the other hand, shows us a society in which the paternal power had long since been reduced to more moderate dimensions. There can, therefore, be no question of the Code's being the law of the patriarchs. On the other hand, there are resemblances between the early

[1] For a full consideration of the topic, see my article "Law in the Old Testament" in Murray's Illustrated Bible Dictionary.

Hebrew customs and the Babylonian law; and it is not impossible that these are due either to community of origin or to direct influence.

The comparison I have to suggest will, I trust, be more fruitful of historical profit than any speculations of influence which are foredoomed to sterility. I purpose to take up the factors and influences in the formation of the legislation that we have seen at work in Babylonia, and show how they operated in ancient Israel. But this process can only be repeated with a necessary difference. While in the older system we had only to note the uncontrolled operation of such ideas as the conception of talion, in the younger we should continually have to stop to examine the checks and restraints that were imposed on them by the theory of legislation that inspires the work throughout.

It is for this reason that, before embarking on the consideration of the various formative influences that we have seen at work in the Code of Hammurabi, we must consider the distinctive currents of thought that dominate the whole. The historical student of, say, English legislation in the nineteenth century, is compelled to take into account the great intellectual forces that molded its history — such as utilitarianism, *laissez faire*, collectivism. The nearest analogy in the case of Hammurabi (if there be one) appears to be the theory that extensive state regulation is for the benefit of the community, and the main interest lies in the political, social, and economic conditions — in the external elements of human life. In the case of the Pentateuchal legislation the exact opposite is true. Here the internal and spiritual compel our fascinated gaze, and the external is of interest mainly in so far as it manifests the influence of the former. The greatness of Israel lies in his soul.

The jural laws contained in the Mosaic legislation form a portion of a larger *corpus* which was given to the Hebrew tribes by the God with whom, at the period, they entered into a special relation. By an act that is unparalleled in history a God took to himself a people by means of a sworn agreement. Some words that are fundamental for our purpose must be quoted from the offer: "Now, therefore, if ye will obey my voice indeed, and keep my covenant, then ye shall be a peculiar treasure to me from among all peoples: for all the earth is mine; and ye shall be unto me a kingdom of priests and a holy nation" (Ex. xix. 5 ff.). The views here expressed dominate the legislation. Holiness — the correlative holiness to which the Israelites must attain because the Lord their God is holy (Lev. xix. 2) — embraces much that is not germane to our subject this afternoon, but it also covers the whole field of national and individual righteousness. The duty to God that is laid upon the Israelites in these words is a duty that has practical consequences in every phase of social life. I have already quoted a sentence from Sir Henry Maine in which he speaks of the uniformity with which religion and law are implicated in archaic legislations. There is a stage in human development where life is generally seen whole, and it is to this stage that the Pentateuch belongs. But no other legislation so takes up one department of man's life after another and impresses on them all the relationship of God and people. Perhaps nothing will so clearly bring out my meaning as a statement of some of the more fundamental differences between the Pentateuchal legislation and the old Indian law-books which often provide excellent parallels to it. Those to which I desire to draw particular attention are as follows: The Indian law-books have no idea of national (as distinct from individual) righteousness — a con-

ception that entered the world with the Mosaic legislation and has perhaps not made very much progress there since. There is no personal God: hence his personal interest in righteousness is lacking: hence, too, there can be no relationship between God and people: and while there is a supernatural element in the contemplated results of human actions there is nothing that can in the slightest degree compare with the Personal Divine intervention that is so often promised in the Pentateuchal laws.[1] The caste system, like Hammurabi's class system, leads to distinctions that are always inequitable. The conception of loving one's neighbor and one's sojourner as one's self are alike lacking: The systematic provisions for poor relief are absent, and the legislation is generally on a lower ethical and moral level; while some of the penalties are distinguished by the most perverted and barbarous cruelty. All these points are embraced in the special relationship of the One God and the peculiar treasure, with its resulting need for national and individual holiness.

The primitive ideas of proof by oath or ordeal meet us again in Israel, as in Babylonia. After what has already been said, they need not detain us. Sympathetic talion only occurs once in the jural laws, though it holds a rather more prominent place in the precepts which have purely supernatural sanctions and are for that reason excluded from comparison with Hammurabi. Talion occupies a somewhat more important position. I have elsewhere given my reasons for thinking that it was always subject to composition except in the case of offenses involving capital punishment.[2] Be that

[1] E.g., "And if ye shall say, What shall we eat the seventh year? behold, we shall not sow, nor gather in our increase; then I will command my blessing upon you in the sixth year, and it shall bring forth fruit for the three years" (Lev. xxv. 20 ff.).

[2] Studies in Biblical Law, chap. vi.

as it may, it is instructive to note that the principle is carefully controlled. In lieu of the penalties striking at innocent children, we read: "The fathers shall not be put to death for the children, neither shall the children be put to death for the fathers: every man shall be put to death for his own sin" (Deut. xxiv. 16)— a provision that was perhaps called forth by some legislation or custom that resembled Hammurabi's Code. Again, the principle of talion is here free from all class differentiations, which are repugnant to the spirit of the Mosaic law, whose only favorites are the weak and helpless. The principle of making manifold restitution for theft and in certain kindred offenses is found here, as in so many other ancient legislations: but the provisions are far more equitable and humane than those of Hammurabi.

On the other hand, the laws relating to filial duty show how much nearer the age of Moses was to the days of unrestricted paternal power than the age of Hammurabi, death being the penalty for striking a parent. It should, however, also be pointed out that the religious element enters into the conception, filial duty being regarded as a constituent in holiness.

In dealing with the Hebrew system we have to assign far more weight to history, and far less to geography, than in the Babylonian. The Hebrew tribes and their customs had a more varied past to look back upon than their Babylonian kinsmen. They had been nomads who for some time had sojourned in Canaan, and had even had some agricultural experience there. Thence they had migrated to Egypt, where they had again tilled the soil; and during the legislative period they were homeless wanderers in a desert, making ready to fall upon the land they yearned to possess. Without doubt the geographical influences must have been effective as

well as varied; but, owing partly to the history and partly to the spiritual nature of the people, they do not exercise the predominating power that they are seen to possess in Babylonia. It will be well to treat the historical and geographical factors together.

The land for which the legislation was intended was not a land of great rivers and fertile plains irrigated by canals, a land of sesame and dates, but "a land of hills and valleys that drank water of the rain of heaven" (Deut. xi. 11); "a land of brooks of water, of fountains, and depths springing forth in valleys and hills, a land of wheat and barley and vines and fig trees and pomegranates, a land of oil olives, and honey; . . . a land whose stones are iron and out of whose hills thou mayest dig copper" (Deut. viii. 7–9).

It is at once obvious that, in view of these natural features, we cannot look for any provisions relating to navigation or canals. It is equally obvious that the economic condition of the people was necessarily far more primitive than that of Babylonia. Hence we shall not find the well-developed system of trades and industry. There are a few rules dealing with the simplest cases of danger by or to cattle, but this is one of the departments of law that show the greatest similarity all the world over, and call for little comment. The real interest lies elsewhere — in the land laws, the slave laws, the tribal theory, and so on. These subjects we must now consider.

The land laws are the product of many independent ideas and circumstances. Their consideration is in place here, because the conditions of the problem and the opportunity for grappling with it show the influence of history with such singular clearness. First, such a system as that expounded in the twenty-fifth chapter of Leviticus could be put forward

only by one who had to work on what is so very rare in history — a clean slate. In other words, the system of land tenure here laid down could be introduced in this way only by men who had no preëxisting system to reckon with. Secondly, there is (*mutatis mutandis*) a marked resemblance between the provisions of Leviticus and the system introduced in Egypt by Joseph (Gen. xlvii.). The land is the Lord's as it is Pharaoh's; but the towns which are built on that land are not subject to the same theory or the same rules. Perhaps the explanation is that Joseph's measures had affected only those who gained their living by agriculture, i.e. the dwellers in the country. Thirdly, the system shows the enormous power that the conception of family solidarity possessed in the Mosaic Age — a conception to which we shall have to return directly. And, fourthly, the enactment is inspired and illuminated by the humanitarian and religious convictions and ideals to which reference has already been made.

In the economic sphere the contrast between Moses and Hammurabi is very marked. Taking human property first, we find that the Babylonian code is careful to guard the rights of slave owners, inflicting the death penalty on those who effectively aid runaway slaves (sects. 15–20). Contrast with this the Hebrew provisions: "Thou shalt not deliver unto his master a servant which is escaped from his master unto thee: with thee he shall dwell in the midst of thee, in the place which he shall choose within one of thy gates, where it liketh him best: thou shalt not oppress him" (Deut. xxiii. 15 ff.). It has been said with some truth that such provisions can more easily be enacted for a primitive community than at a more developed economic stage, but this is only a portion of the truth, and, if taken by itself, a very misleading portion. Economic circumstances may have been one of the conditions

of the enactment of the rule (at any rate in its present form): they could not provide its *Motive*. The difference between the two legislations here indicated is further emphasized by other provisions which secure the slave from mal-treatment by his master. Here it cannot be said that economic development necessitates or justifies the Babylonian code. In a word, where Hammurabi safeguards the rights of property, Moses for the first time in history protects the rights of humanity.

The same holds good of the laws relating to loans, pledges, and poor relief. The legislator's object is always the same — to give practical effect to the doctrine of holiness which conceives the love of God's creatures as part of the Israelite's duty towards his God.

We now come to two points that are best treated together — the strength of the family and tribal sentiment, and the weakness of the central administration. These appear to be due mainly to historical causes. In lieu of a people subjected to a strong centralized royal power with class distinctions, as were the Babylonians, history had made of the Hebrews a loose aggregation of undisciplined tribes unaccustomed to community of government, community of interest, or community of action, knowing little of class distinctions, but profoundly imbued with family sentiment. The enormous strength of this feeling is to be seen in the influence it exercised on the law of succession to land. Here the possible effect of the Mosaic provisions led to a deputation of remonstrance, which pointed out that the possessions of heiresses might by their marriage become permanently vested in members of another tribe. It was accordingly enacted that in such cases they must espouse men of their own tribes, but the incident and the resulting law testify very vividly to the nature of the feeling. It is probably to this feeling of tribal

separateness that we should attribute, in part at any rate, the great defect of the system — the failure to create a central government, which in those days could have been effected only by giving hereditary authority to one family. Probably no tribe would have submitted to a king who was chosen from some other tribe. Neither Moses nor Joshua appears to have had a son who was capable of ruling, and for the purposes of conquest a general was the only possible head of the people. Hence the defect was probably inevitable, but the weakness of the Hebrew system at this point is the measure of the strength of the Babylonian. The strong security for life and property, the compensation for robbery that Hammurabi could afford, were out of the question for tribes with the historical antecedents of the Israelites. It should further be pointed out that the geographical character of the country, with its hills and valleys, and the survival of a large alien population filling in the interstices between the Hebrew settlements, must have made a centralized national power impossible for long after the days of Moses.

With regard to legal machinery everything is very primitive. With the single doubtful exception of the bill of divorce, the use of writing by private persons in the ordinary course of every-day life is never contemplated. Hence we find, as in so many primitive communities, that legal business was habitually transacted in the most public place possible, i.e. at the gate of the city, where the facts would necessarily become known to those who would be judges or witnesses or both in case of any further dispute.

Turning now to the intellectual element in the law, we find that the state of legal reflection is also very primitive. A distinction between intentional murder and other forms of homicide is introduced for the first time, and in terms that

show clearly how difficult the conception was to contemporaries of Moses. The same holds good of the law of rape. In the case of the savage ox the Hebrew legislator reaches the same stage of reflection as the Babylonian, but the undeveloped state of thought is further attested by sacrificial provisions relating to sins committed in ignorance and wilfully, which, however, strictly fall outside the scope of this paper. An act committed in ignorance may be a sin calling for atonement. On the other hand, no atonement can be made for wilful sins, and all sins are regarded as either ignorant or wilful. Such conceptions are the best witness to the extremely archaic nature of the legislation.

To sum up the results of our survey: In dealing with any legal system it is necessary to separate the accidental from the essential, the universal from the characteristic. Every progressive race necessarily passes through certain stages of growth. Every race will be affected by its environment, the surroundings of its life, the task that it must accomplish if it wishes to exist. Every progressive race will have to deal with certain problems that arise in all countries, the problems presented by those who kill or injure their neighbors, the ownership of property of various kinds, the commonest forms of social intercourse, and so on. In some of these cases all men of ordinary ability will reach substantially the same solutions; but in others, the interplay of the various factors causes considerable variety. The study of the results is a task of some interest, but it must yield in fascination to the consideration of national and legislative ideals and national character. These two are inseparably linked, for there must be a more or less close correspondence between the character of the legislation and the sentiments of the governed. Legislative ideals of our own and past ages readily present them-

selves to the mind in abounding number — τὸ εὖ ζῆν —with all that it meant to the Athenian; the imperialism of Rome; liberty, equality, fraternity; utilitarianism; *laissez faire, laissez passer;* nationalism; and so on. If we interrogate the Babylonian code for its ideas, we learn that its watchword is "Security and Prosperity"; if the Israelitish, we receive the answer "Holiness."

The fate of the legislations has corresponded to their respective characters. A generation or two after the death of Hammurabi, no man could have doubted that his work had been successful; probably few would have said as much of the work of Moses at a corresponding interval after he was gathered to his fathers. "In those days there was no king in Israel; every man did that which was right in his own sight." But to-day the verdict is different. The Code of the Babylonian had its period of utility, and was then flung aside like an old shoe. For thousands of years its very name was forgotten, and to-day, when the bulk of it has been exhumed from the dust of centuries, we find that it is without value for our life or its problems. The people to whom it was given have passed away after doing their part for the material and intellectual advancement of the world, but without contributing one iota to its higher life. The work of the Israelite, on the other hand, has given to his own people the quality of immortality and has borne mighty fruit among other peoples in both hemispheres; so far as human vision can see, it will continue to do so in ever-growing measure; and throughout a century of generations, the work of him who was powerless to create machinery that could maintain public security in the national territory for a single generation has remained, for millions of people all over the world, *par excellence* the Law.

INDEX I

PRINCIPAL PASSAGES REFERRED TO

GENESIS

i. 1–Ex. iii. 12 53
i. 1–ii. 3 207
ii. 58
ii. 4a, 4b ff. 207
ii. 14 64, 83
iii. 58
iii. 18 88
iv. 3 ff. 86
iv. 20 255
iv. 25 f. 59, 208
iv. 26 55 f.
v. 28 208 f.
vii. 8, 9 59
viii. 1b 59
viii. 20 ff. 86
viii. 20 51
ix. 20–27 59
x. 26
x. 19 5 f., 27, 63, 83, 116, 123
xii. 4b 78, 80
xii. 5 73, 78, 80
xii. 6 80
xii. 6b 26
xii. 8 26
xii. 10 ff. 68
xiii. 6 78, 80
xiii. 7b 26
xiii. 9 aβ 80
xiii. 11b 78, 80
xiii. 12a, b 78
xiii. 12bβ 80
xiii. 14 26
xiv. 83
xiv. 14, 18 28
xv. 1 75
xv. 2–4 219 *n.*
xvi. 68
xvi. 1 78
xvi. 1a 81
xvi. 3 78, 81
xvi. 11 53, 55 f., 106
xvi. 15, 16 78, 81
xvii. 78, 82
xvii. 1 59
xvii. 7, 8 203
xvii. 25 82

GENESIS

xviii. 13 75
xix. 3 86
xix. 29 78, 81
xx. 68, 74 ff.
xx. 4 74
xx. 5 75
xx. 7 28, 75 f.
xx. 14, 18 74
xxi. 1 30
xxi. 1b 59, 78
xxi. 2b, 3 78, 82
xxi. 4 78
xxi. 8 ff. 67 f.
xxi. 8 86
xxi. 9 81
xxi. 14, 15, 18 82
xxii. 19 ff., 26, 67, 86, 206 *n.*
xxii. 1 59
xxii. 2 19
xxii. 10 206 *n*
xxii. 11 55, 59
xxii. 14 19, 59
xxii. 15 55
xxii. 16–18 203
xxiii. 78, 219
xxiii. 1, 2 78
xxiv. 87
xxv. 7, 8, 9, 10 78
xxv. 11 79
xxv. 26 22 f.
xxvi. 24 203
xxvi. 30 86
xxvi. 34 22 f.
xxvii. 22 f.
xxvii. 2, 4 24
xxvii. 35 ff. 67
xxvii. 41 23 f.
xxvii. 46 22
xxviii. 13 f. 203
xxviii. 21b 59
xxviii. 22 208
xxix. 22 86
xxx. 18 74
xxx. 18 aβ 75
xxxi. 7 75
xxxi. 32 219

GENESIS

xxxi. 50 55, 59
xxxi. 54 86
xxxiii. 1–17 59
xxxiii. 5b, 10, 11 59
xxxiv. 70
xxxiv. 7 28
xxxv. 5 72
xxxv. 14 86
xxxv. 21 28, 72
xxxv. 22 45 *n.*, 71
xxxv. 22a 72
xxxv. 28 22 f.
xxxvi. 31–39 26
xxxvii. 30, 45 ff., 89
xxxvii. 2, 3, 13, 14a 35
xxxvii. 21 f. 45
xxxvii. 25–27 46
xxxvii. 28a 46 ff.
xxxvii. 28b 46
xxxvii. 31 206 *n.*
xxxvii. 34 35
xxxvii. 36 46 ff.
xxxviii. 24 85
xxxix 30 f., 60, 70
xxxix. 1 30 f., 46
xxxix. 3, 5 31 *n.*
xxxix. 6–19 70
xxxix. 7–20 70
xxxix. 10, 11, 12, 13 31 *n.*
xxxix. 20 f. 30 f.
xxxix. 20 31, 31 *n.*
xxxix. 22 31 *n.*
xl. 30 f.
xl. 1–7 32 f.
xl. 1 31
xl. 2 32
xl. 3 31, 31 *n.*
xl. 4 32
xl. 5 31, 31 *n.*, 32
xl. 7 31 ff.
xl. 15 27 f., 31, 46
xli. 4, 5, 8 33 *n.*
xli. 10 32
xli. 11 33 *n.*
xli. 12 34 *n.*
xli. 13 33 *n.*
xli. 14 31
xli. 17, 19, 23, 27, 34, 44 34 *n.*
xli. 45 33
xli. 46 33, 34 *n.*
xli. 51 34 *n.*
xli. 56 34 *n.*, 39 *n.*
xlii. 41 f., 45 *n.*

GENESIS

xlii. 1 72, 74
xlii. 2 43 *n.*
xlii. 3 43 *n.*, 85
xlii. 4 34 f., 72
xlii. 5 35, 43 *n.*
xlii. 6 39, 43 *n.*
xlii. 8 34
xlii. 13, 14, 18 43 *n.*
xlii. 22 43 *n.*, 45
xlii. 25, 27 41 f.
xlii. 28 44 *n.*, 60
xlii. 28a 41 f.
xlii. 29 72
xlii. 30 41
xlii. 32 43 *n.*
xlii. 33 41, 43 *n.*
xlii. 34 43 *n.*
xlii. 35 41 f., 43 *n.*
xlii. 36 36, 72
xliii. 45 *n.*
xliii. 2 36
xliii. 3 43 *n.*
xliii. 6 72
xliii. 8 36, 43 *n.*, 72
xliii. 9 43 *n.*
xliii. 11 36, 72
xliii. 12 41 f.
xliii. 13, 14, 15 43 *n.*
xliii. 16 43 *n.*
xliii. 17 43 *n.*
xliii. 18, 21 41 f.
xliii. 22, 24, 26 43 *n.*
xliii. 28 44 *n.*
xliii. 30 43 *n.*
xliii. 34 44 *n.*
xliv. 219
xliv. 8 41 f.
xliv. 11, 14 44 *n.*
xliv. 18 ff. 67
xliv. 23, 26, 27 44 *n.*
xlv. 70
xlv. 3 44 *n.*
xlv. 4 46
xlv. 5, 7, 12, 16, 19, 22, 23 44 *n.*
xlv. 25 72
xlv. 27 36, 44 *n.*
xlv. 28 36, 44 *n.*, 72
xlvi. 1 36, 86
xlvi. 1a 72
xlvi. 2 34, 36, 71 ff.
xlvi. 5 34, 36
xlvi. 5a 72 f.
xlvi. 5b 71 ff.

GENESIS

xlvi. 6 36
xlvi. 6 f. 43 f.
xlvi. 8–27 44
xlvi. 8 36 f.
xlvi. 12 89
xlvi. 27 73, 202
xlvi. 29, 30 37, 72
xlvii. 334
xlvii. 5–11 44
xlvii. 7, 8, 9 36
xlvii. 21 39 *n.*
xlvii. 27 36
xlvii. 27b 44
xlvii. 28 36, 44
xlvii. 29, 31 36
xlviii. 2, 3 37
xlviii. 2a, b 73
xlviii. 7 67
xlviii. 8 34, 37. 71 ff.
xlviii. 9 37
xlviii. 10 38
xlviii. 11 34, 38. 71 ff.
xlviii. 14 38, 67
xlviii. 15 57
xlviii. 21 34, 38. 71 ff.
xlix. 6 289
xlix. 20 163
xlix. 28 34, 38
xlix. 29, 30. 31, 32 45
l. 2 38
l. 13 45
l. 25 71

EXODUS

i. 5 202
iii. 19 75
iv. 14 248, 250
iv. 25 87
vi. 3 148
vi. 19 251
viii. 22 201
ix. 26 201
x. 21–23 201
xii. 3 184
xii. 6 206
xii. 23 75
xiii. 1ff. 193
xiii. 9 217 *n.*
xiv. 210 *n.*
xiv. 5 75
xiv. 27 f. 209
xvi. 4 217 *n.*
xvi. 32 149
xvii. 69

EXODUS

xvii. 7 69 *n*
xvii. 14 149
xviii. 6 148
xix.–xxiii. 180
xix. 5 ff. 330
xix. 22, 24 230, 251
xx. 14 190
xx. 24–26 183 *n.*, 188, 226, 300
xxi. ff. 180 ff.
xxi., xxii. 8
xxi. 151
xxi. 5 186 *n.*
xxi. 6 148, 150 f., 186 *n.*
xxi. 13 180, 299 *n.*, 300
xxi. 14 299 *n.*, 300
xxi. 15 86
xxi. 17 86, 190
xxi. 20 149
xxi. 37 (xxii. 1) 145
xxii. 17 (18), 18 (19) 190
xxii. 28 (29) 296
xxiii. 192 *n.*
xxiii. 16, 19 187 *n.*, 295 f.
xxv.–xxxi. 170
xxv. 10 202
xxvi. –xl. 152 ff.
xxvi. 18 152 f.
xxvi. 20, 22, 35 153
xxvii. 2 . 146
xxvii. 9 152 ff.
xxvii. 11, 12, 13 154 f.
xxviii. 41 245 *n.*
xxix. 7 245 *n.*, 246 *n.*
xxix. 13–Num. xviii. 17 206
xxix. 21 246 *n.*
xxx. 1–9 254
xxx. 2, 3 146
xxx. 15 299
xxx. 30 246 *n.*
xxxii. 26–29 251
xxxiii. 7 148
xxxiv. 192 *n.*, 206 *n.*
xxxiv. 10–26 180
xxxiv. 19 ff. 193
xxxiv. 22 187 *n.*, 295
xxxiv. 25 206 *n.*
xxxiv. 26 187 *n.*, 295
xxxvi. 23 152 f.
xxxviii. 9–13 155 f.
xxxviii. 9 152
xxxviii. 21 233
xl. 13, 15 246 *n.*
xl. 24 152

LEVITICUS

i.–xv. 170
i.–vii. 186, 205 f.
i. 247
i. 2 187
i. 7, 8, 11 244
ii. 3 187 *n.*
ii. 11–16 295
ii. 11 f. 296 *n.*
iii. 2 248
iv. 188
vii. 12–14 187 *n.*
vii. 34 291 f.
vii. 35 246 *n.*
viii. 30 246 *n.*
ix. 22 257
x. 254
x. 7 246 *n.*
x. 10 278
xiii. f. 246
xiii. 2 244
xiii. 47 ff. 247
xiv. 247
xiv. 33–53 247
xiv. 54–57 216
xvi. 170, 192
xvi. 12 f. 254
xvii. 5 293 *n*
xviii.–xx. 182, 189
xvlii. 21 165
xviii. 29 189
xix. 183, 189 f.
xix. 2 330
xix. 5–8 189
xix. 14 177
xix. 20 189
xx. 190 f., 334
xx. 1–5 165
xx. 2–5 190
xx. 3 189
xx. 9 ff., 15 f., 27 190
xxi. 10, 12 245 *n.*
xxiii. 192 *n.*
xxiii. 10–20 295
xxiii. 27 192
xxiv. 5–8 239
xxv.–xxvi. 180
xxv. 176, 233
xxv. 20 ff. 331 *n.*
xxv. 43, 53 176
xxvi. 177 f.
xxvi. 42 205
xxvii. 26 f. 193
xxvii. 32 298 f.

NUMBERS

i. 50–53 233
iii., iv. 235
iii. 3 245
iii. 4 287
iii. 6–10 233 f.
iii. 7, 8, 11 ff., 25 f. 234
iv. 237 *n.*, 243
iv. 4 234
iv. 15 235
iv. 19 243
iv. 20 239
iv. 21–28 235
iv. 32 243
v. 9–10 193, 294
vi. 22–27 256 f.
vii. 244
vii. 5 ff. 236
viii. 237 *n.*, 244
viii. 22 235 *n.*
viii. 26 236
xi. 5 10
xi. 22 206 *n.*
xi. 31–33 10
xiii. 2–16 202
xiii. 20 296 *n.*
xiv. 4 167
xiv. 16 206 *n.*
xiv. 33 202
xv. 3 ff. 187
xv. 17–21 296 *n.*
xv. 20 294
xvi. 3 254
xvi. 9 f. 237
xvii. 5 (xvi. 40) 254 f.
xvii. 11 f. (xvi. 46) 254
xviii. 294 f.
xviii. 3 234, 236, 239
xviii. 4, 5, 6 236
xviii. 12 294 f., 296 *n.*
xviii. 13 294 f.
xviii. 15–18 194
xviii. 15 f. 293 f.
xviii. 17 206
xviii. 27 295
xx. 69
xx. 21 75
xxi. 9 149
xxi. 23 75
xxii. 4 289
xxii. 13 75, 202
xxii. 37 75
xxiii. 21 163
xxiv. 4, 16 75 f.

NUMBERS

xxv. 2 f. 229
xxviii.–xxix. 185
xxix. 8 192
xxix. 12 (13) 202
xxx. 182
xxxi. 10
xxxi. 18 10
xxxii. 13 202
xxxiii. 10
xxxiii. 26 295
xxxv. 288, 300
xxxv. 9–34 180
xxxv. 28 288
xxxvi. 11

DEUTERONOMY

i. 23 202
ii. 2–14 202
iii. 27 202
iii. 28 224
v. 22 289
viii. 2 202
viii. 3 328
viii. 7–9 333
ix. 10 289
ix. 22 69 *n.*
x. 3 202
x. 6 251
x. 9 301
x. 22 202
xi. 4 209, 210 *n.*
xi. 5 210 *n.*
xi. 11 333
xii. 188, 194
xii. 6, 11 171
xxi. 20 292
xiii. 6 179 *n.*
xiv. 22 ff. 297
xiv. 23 298
xv. 294
xv. 12–18 186 *n.*
xv. 19 ff. 194, 293 f.
xvi. 192 f., 192 *n.*
xvi. 21 f. 183 *n.*
xvii. 1 184
xvii. 11 217 *n.*
xvii. 12 255
xvii. 14–20 157 ff.
xvii. 14 157 f., 165
xvii. 15 f. 158 f., 166 f.
xvii. 17 158 f.
xvii. 18 158 f., 166
xvii. 19 159 f., 166

DEUTERONOMY

xvii. 20 159 f., 166, 166 *n.*
xviii. 256
xviii. 1–8 255
xviii. 1 301
xviii. 3 291 ff.
xviii. 4 188 *n.*, 294, 296 *n.*
xviii. 6–8 252 f., 255
xviii. 8 256, 291, 302
xviii. 10 190
xviii. 12, 13 294
xviii. 14 75
xxi. 1–9 252, 288
xxi. 5 253
xxi. 8b 170
xxi. 15 ff. 220 *n.*
xxi. 18–21 86, 182 *n.*
xxii. 5–12 183 *n.*
xxii. 30 190
xxiii. 15 ff. 334
xxiv. 8 216, 217 *n.*, 252, 253
xxiv. 16 332
xxvi. 297
xxvi. 1–11 188 *n.*, 294
xxvi. 1–10 296 *n.*
xxvi. 1 f. 294
xxvi. 2, 12 f. 294
xxvii. 9 257
xxvii. 18 177
xxviii. 34–41 214 *n.*
xxviii. 36 163 f.
xxviii. 69 (xxix. 1) 210
xxix. 12 f. 202 f.
xxxi. 6, 7 224
xxxi. 14 f. 171
xxxi. 23 224
xxxi. 30 289
xxxii. 42 161
xxxiii. 4 169
xxxiii. 5 163 f.
xxxiii. 8–11 251
xxxiii. 8 69 *n.*
xxxiii. 10 253
xxxiv. 10 75

JOSHUA

ii. 15 149
iii. 8, 13, 14, 17 258
iv. 9 258
v. 3 ff. 87
vii. 20 75
viii. 35 289
ix. 17 268
x. 19 75

JOSHUA

xiv. 15 27
xviii. 1 262
xviii. 7 258
xviii. 24, 25, 28 268
xxi. 201
xxi. 14 261
xxi. 17 269
xxii. 225 ff.
xxii. 10 228
xxii. 17, 19 229
xxii. 28 225

JUDGES

xiii. 19, 23 187 *n.*
xiv. 8 289
xvii. 7 249
xvii. 13 258
xviii. 30 249

I SAMUEL

i. 20 107
ii. 12–16 291
ii. 12 292
ii. 18 f. 264
ii. 27–36 272
ii. 27 262
ii. 36 287, 290
iii. 13 160
iii. 15 264
vi. 266
vi. 13–15 302
vi. 14, 15 266 f.
vii. 1 267
vii. 2–17 167
vii. 2 265
viii. 167
viii. 17 298
ix. 9 28
x. 5 269
x. 17–27a 167
xii. 167
xii. 6, 8 273
xiii. 3 269
xvii. 47 289
xxv. 11 145
xxviii. 6 274

II SAMUEL

vi. 267
vi. 13 271
vi. 18 259
vi. 20 260
viii. 17a 260
viii. 18 260 f.
xiv. 14 300
xv. 12 262
xx. 26 261, 302
xxiii. 38 261

I KINGS

i. 50 146
ii. 260, 262
ii. 26 301
ii. 27 273
ii. 28 146, 299 *n.*, 300
ii. 34 262
ii. 35 274
iii. 4 303
iv. 5 262
viii. 4 268, 274
viii. 14 289
viii. 56 ff. 260
viii. 63 248
viii. 64 187 *n.*
xii. 20 289
xii. 31 273 f., 301
xix. 32 75
xx. 23, 28 20
xxi. 10, 13 160

III KINGDOMS LXX

ii. 46h 261 f.

II KINGS

xii. 8, 10, 11 275
xvi. 275
xvi. 13 86, 187 *n.*
xvi. 15 281 *n.*
xix. 2 275
xix. 32 75
xxiii. 4 275
xxv. 18 275

ISAIAH

viii. 21 160
x. 8, 10 160
x. 12 161
x. 29 268
xxii. 15 261
xxxvii. 2 275

JEREMIAH

i. 213
i. 1 302 f.
vii. 12, 14 268
xix. 1 275
xxii. 18 75
xxvi. 6, 9 268
xxvii. 19 75
xxxii. 84, 302
xxxiii. 18–22 273
xxxiii. 18–21 275
xxxvii. 12 301
lii. 24 275

EZEKIEL

xii. 12 162
xiii. 7 75
xxii. 26 277
xxviii. 2 161
xxviii. 12 161 f.
xxviii. 22, 24 162
xxix. 14, 15 162 f.
xl. 45 f. 278
xli. 46 273
xlii. 14 280
xliii. 7 ff. 280
xliv. 6–16 279
xliv. 9–14 237 f.
xliv. 23 283 *n.*
xliv. 28 305
xlv. 4 ff. 280
xlv. 16 f. 282 *n.*
xlv. 17 86
xlvi. 2, 4–8, 11–18 281 *n.*
xlvi. 19–24 282 *n.*
xlviii. 305

AMOS

iv. 5 187 *n.*
v. 22, 25 187 *n.*

MICAH

ii. 5 289
iv. 8 28
vi. 4 273

ZECHARIAH

xiv. 21 239

MALACHI

ii. 273
ii. 1–9 276
iii. 3 276

JOB

xii. 9 106

PROVERBS

xvii. 2 219 *n.*
xxx. 23 219 *n.*

NEHEMIAH

iii. 1 28
v. 5 85
x. 33 (32) 299
x. 36 (35) 296 *n.*

I CHRONICLES

ix. 32 238
xviii. 17 260
xxii. 13 224
xxiii. 28 239
xxiii. 29 238, 239
xxiii. 30, 31 239
xxv. 285 *n.*
xxv. 4 285 *n.*
xxv. 5, 6 285 *n.*, 286 *n.*
xxvii. 33 f. 262
xxviii. 20 224

II CHRONICLES

xiii. 285 *n.*
xiii. 11 238
xiii. 22 284, 284 *n.*
xxiv. 27 284 *n.*
xxx. 27 257 *n.*
xxxii. 7 224

CODE OF HAMMURABI

SECTION	PAGE
2	308
7	313
9 ff.	311
15–20	334
20	308
23 ff.	326
23	308
25	311
35–38	319
42 ff.	316, 324
45	323
46	323
48	316, 326
49–52	316
53–56	315
57 ff.	318
103	308, 323
104 ff.	320
106	312
107	312
108	327
115	323
117	326
120	308
122 ff.	321
132	308
134	320
138–140	308
138	319
142 ff.	320
142	319
143	307 *n.*
167	319
168 ff.	313
173, 174, 176	319
179	321
192, 193	313
195	311, 313
196–197	309
198	310
206–208	324
206	308
218	321
227	323
229 ff.	310
229	324
237	314
249	323
250–252	323
259 ff.	315
261	317, 317 *n.*
263–267	317 *n.*
263	318
265	312
266	323
267	318
275–277	314
278	323

INDEX II

SUBJECTS

Aaron, 233, 235 ff., 243–248, 250 f., 253–257, 272, 280 ff.; called "the Levite," 248–250.
Aaron, Sons of, 235 ff., 243–248, 250 f., 253–257, 272, 280 ff.; *see also* Zadok.
Abiathar, 260, 274 f., 282.
Abinadab, 269 f.
Abraham, 18, 67 f., 77–83, 87; a personal name, 8, 18; called a "prophet," 75 f.; acquisition of the field of Machpelah, 84.
Admah, 5, 27.
Ahitophel, 262.
Akiba, 16, 128.
Altar, 4, 86, 146; lay and horned, 225–229, 299; not an asylum, 300; *see also* House and Altar.
Amnesty for fugitive slayer, 288.
Amorite, land of, 19.
Amtachath, 42.
Anathoth, 301 f.
Animals, list of forbidden, 183.
Anthropomorphism, 19 ff.; Septuagintal avoidance of, 20.
Âpastamba, 316, 318.
Appellations, Divine, 3, 131 f., 139, 147; in Genesis, 51 ff., 55–61, 64 f., 71, 91, 114, 118; in Job, 106; *see also* Skinner's "Genesis" and Astruc, clue of.
Aquila, 16, 53, 111, 160, 163, 166, 230.
Archæology, 7 f.
Archōn and cognates, 160–165; *see also* King and ruler.
Ark, 10; carried by Levites, 256, 263; return from Philistines, 265 f.; abode of, 265–268; at Beth-shemesh, 266 f.; at Kirjath-jearim, 269 f.; taken to Jerusalem, 271 f.
Armenian, 166.
Assyriologists, 8.
Astruc, clue of, 4, 38, 51 ff., 61, 76, 105 *n.*; school of, 138.
Atonement, Day of, 170, 191.
Aularch, 260 f.

Babylonia, legislation of; *see* Hammurabi, Code of.
Baentsch, Bruno, 7.
Barton, G. A., 13 ff.
Baudissin, 242 *n.*
Benaiah, 261.
Ben Asher, 131.
Bethel, 26, 301 f.
Beth-shemesh, 266 f., 301 f.
Bible, Hebrew, 6; *see also* Massoretic Text.
Bikkurim, 187 *n.*, 294–298.
Blass, 214 *n.*
Blessing, priestly and other, 257, 259 f.
Blood-feud, 85, 176, 180.
Bohairic, 38, 244.
Booty, laws of, 10.
Boyd, J. O., 225 f.
Briggs, C. A., 105 *n.*, 127–133, 135, 197, 217 f.; and S. R. Driver, correspondence with, 90–113, 127, 135.
Brown, F., 197.
Bühler, 316.
Burney, C. F., 8.
Burnt-offerings, 186.

Cain, 64, 85.
Caleb, 27.
"Canaan, land of," 73 f., 80; division of, 282 *n.*, 300 f.
"Canaanite and Perizzite," 26.
"Captain of the guard," 30 ff.
Carpenter, J. Estlin, 26, 31, 40, 192, 199, 258.
Cases, decided; *see* Legislation.
Cheyne, T. K., 261.
Chronicler, 259, 260 f., 284 *n.*, 285 *n.*, 286 *n.*
Chronology, difficulties of, 23.
Chrysostom, 36 f.
Circumcision, 87.
Cities of refuge, 85, 180, 300.
Commentaries, Jewish, 16.
Common Prayer, Book of, 130.
Condamin, 93.

"Congregation," 289.
Conquest, laws of, 10.
Conveyance, of field of Machpelah, 84; in Jeremiah, 84.
Corban, 171, 186, 187 *n.*
Cornill, C. H., 204.
Corruptions of text; *see* Criticism, textual.
Courts, constitution of, 182 f.
Covenant, 204 f.; between God and Israel, 178, 330; at Sinai, 180, 190, 192 *n.*; land, 180; Deuteronomy, 180; rest of legislation, 180; book of the, 296, 298.
Cox, A. P., 52, 92, 138 ff.
Criminal Law; *see* Hammurabi, Code of, Legislation.
Criticism, principles of conservative, work on, 1ff., 124 ff., 195; textual, 6 f., 11, 15, 19 f., 22 ff., 27 f., 129, 157–168, 231 f., 234 f., 237, 243 ff., 249, 261, 266 f., 274; bearing of textual, on history and faith, 13–18; textual, of story of Joseph, 29–48; textual, of Genesis; *see* Skinner's "Genesis," Isaac; textual, of concluding chapters of Exodus, 152, 156; textual, of concluding chapters of Numbers, 15, 203; textual, importance of, 129–137; and *see* Glosses, Massoretic Text, Septuagint; higher, *see* Higher Criticism.
Cuq, E., 319.
Curses, 177, 177 *n.*, 179, 191; and *see* Legislation, appeal to religion.
Curtis, 284 *n.*, 285 *n.*, 286 *n.*

D, 75, 82, 85 f., 171, 187, 202–206, 251, 256.
Dahse, J., 13, 52, 55, 90.
Dan, 28.
Dareste, 288.
David; *see* Ark, Blessing.
Deborah, Song of, 64.
Debtors, insolvent, 175 f.
Decalogue, 192 *n.*; Mosaic authorship of, 8; and *see* Covenant, Sinaitic.
De Morgan, 306.
De Rossi, 36, 38.
Descriptions, contemporary, true to life, 10.
Deuteronomy, style of, 195–224; unity of, 11; Mosaic authorship of, 169; legislation of, *see* Legislation; intended for public reading, 181; construction of, 210; rhythm of, 213 f.; *see also* Driver.
Dillmann, A., 149.
Discrepancies in Pentateuch; *see* Pentateuch.
Dittography, 166.
Divine appellations; *see* Appellations.
Documents, clue to; *see* Astruc.
Dooms, 180.
Door and Sanctuary, 148; *see also* House and Altar.
Doublets, 30, 34, 35.
Drink-offering, 86, 187, 187 *n.*
Driver, S. R., 22 f., 28, 134 f., 137 *n.*, 167, 170–173, 197–213; on Exodus, 143–151; *see also* Briggs.
Duhm, B., 161.

E, 13, 31, 34–38, 41, 45, 59, 66–76, 81 *n.*, 82, 86 f., 206 *n.*, 250, 258; *see also* JE.
Ex, 70.
Eder, tower of, 28.
Eerdmans, 7, 13, 52, 54 f., 106, 111, 117 f., 125 *n.*, 133, 143.
Egyptian life, 10.
Eleazar, son of Aaron, 244, 251; son of Abinadab, 267 f., 270.
Eli and his sons, 160, 265, 282 *n.*, 287, 291.
Eli, house of, 272 f.
Elohim, 148 *n.*, 150; and *see* Appellations.
Esau, 22, 24, 67, 77.
Exodus; *see* Driver, Legislation.
Ethiopic, 36 f., 166, 169.
Ezekiel, style of, 199 f.; picture of future Israel, 304 f.; and *see* Priests.

Faith; *see* Criticism.
Feast of Weeks, 278, 295.
Field, F.; *see* Hexapla.
First-fruits; *see Bikkurim, Reshith.*
Firstlings, 192–194, 293 f.

Gautama, 318.
Geba; *see* Gibeah.
Genesis, early chapters of, 5; unity of, 11; chronology of, 76, 81 f.; and *see* Isaac; historical character of, 87 f.; Post-Mosaica of; *see* Post-Mosaica; opening words of, 207; text of, *see* Skinner and Criticism; Divine appellations in, *see* Appellations.
Gesenius-Kautzsch, 149.
Gibeah, Gibeon, Geba, 268 f.
Gideon, sacrifice by, 259 *n.*
Giesebrecht, 73.
Glosses, 15, 26, 28–38, 40–45, 48, 59, 69 *n.*, 70 f., 74, 81 f., 152 f., 159–163, 165, 166, 234 f., 254 f., 266, 275.
Gomorrah, 5, 27.
Gordon, A. R., 90–94, 137f., 140 *n.*; correspondence with, 114–123.
Göttsberger, 57 *n.*, 58 *n.*
Graf-Wellhausen theory; *see* Wellhausen.
Gray, G. B., 10.
Green, W. H., 167.
Gressmann, 64.
Griffiths, J. S., 124.
Guilt-offering, 170, 188.
Gunkel, 58.

H, 204.
Hagar, 67, 68, 78, 81.
Hammurabi, Code of, 8, 306–338; conditions in which compiled, 306 f.; influence of early ideas, 307–313; geographical influence, 313–319; resemblances of, to early Hebrew custom, 328 f.; divorce in, and in Sumerian legislation, 307; talion in, 309 f.; sympathetic talion in, 310 f.; land laws; 315 f; Indian parallel to land laws, 316; law of theft in, 311 f.; parallel from Nârada to, 311; compared with Roman, 325 f.; laws of employers in, with Indian parallel, 317 f.; law of liability for damage done by sheep in, with Indian parallel, 318 f.; laws of property in connection with marriage in, 319; laws as to royal officers with English parallel, 319 f.; laws of marriage, 320; later legal machinery in, 320 f.; law of legal documents, 321 f.; law of succession and settlements, 321; fees for work done and Indian parallel, 321 f.; penalties for want of care or skill, 321 f.; laws of property, 322 f.; *patria potestas* in, 312 f.; class distinctions, 322, 327; treatment of intellectual element in offenses, 323 f.; characteristics of, 320–329; savage nature of, 324 f.; object, 325 ff., 338; ideals of, 325, 327, 338; comparison with Hebrew code, 328–333; boat-hire in, and Manu, 313 f.
Harford-Battersby, G., 199.
Harper, W. R., 134.
Heave-offering, 294.
"Hebrews, land of the," 27 f.
Hebron, 27.
Hexapla, 33, 35, 111, 118, 135, 157, 160–165, 249, 261.
High Priest, 245, 287 ff.; and *see* Aaron, Eli, Priests, Zadok.
Higher Criticism, arguments of, 1–9, 19 ff., 23 ff., 26 ff., 30 f., 34 f., 58 ff., 62–66, 67 f., 169–224, 231–283, 287 ff., 290 ff.; often destroyed by textual criticism, 30 f., 71; *see also* Astruc, Briggs, Driver, Skinner, Wellhausen.
History, *see* Criticism; influence of, on law, *see* Hammurabi.
Hitzig, 261.
Holmes, 34, 164.
Homicide, Noah's law of, 84; Babylonian law, 84; Cain, 85; *see* Cities of Refuge, Hammurabi.
Homocoteleuton, 31 *n.*
Hoonacker; *see* Van Hoonacker.
Hort, 135.
House and Altar, 4, 225; *see also* Sanctuary.
Hushai, 262.

Idolatry, prohibition of, 192 *n.*
Incense, 254.

Inheritance, 11.
Injunction, 175.
Ira, 261.
Isaac, age of, 22 ff., 67, 69, 77.
Ishmael, 23, 78 f., 82.
Ishmaelites; *see* Joseph.
Israel; *see* Jacob.
J, 6, 26, 31, 32–38, 41, 45, 58 ff., 63, 66–71, 79–82, 86 f., 88, 208, 251, 258; *see also* JE.
J^1, 13.
J^2, 13.
J_S, 70.
Jacob, 22, 24, 67, 71–73, 77; names of, 34–38, 41; vow of, 298.
Jairite; *see* Ira.
Jamnia, school of, 128, 130.
Jattirite; *see* Ira.
JE, 77, 81, 83, 85 f., 171, 181 *n.*, 202–206, 209 f., 212, 213, 248.
Jealousy, law of, 189.
Jeremiah, style of, 199 f.; his holding at Anathoth, 301 f.
Jeroboam, 273, 301.
Jerome, 33, 40.
Jewish Quarterly Review, 124.
Joab, 300.
Jonathan, 249, 258.
Joseph, Story of, 70–73; discrepancies, 30 ff., 41 f., 45–48; historical difficulty of, 39 ff.; recognition of brethren, 34, 41; unity of narrative, 42, 67; in prison, 30–33; sale of corn, 39–41; discovery of returned money, 43 f.; Judah and Reuben, 45.
Joshua, 251.
Jubilee, 170, 177, 181 *n.*
Judah, 45, 45 *n.*, 85 f., 89.
Jurisprudence, comparative, evidence of, 83 ff.
Jus vitæ necisque; see Patria.

Kalchi, 64.
Kautzsch, 148 *n.*
Keil, 22.
Kennicott, 36 f.
Kent, C. F., 146.
King and ruler, 157–168, 282 *n.*
King's friend, 262.
King's offering, 281 *n.*
King, L., 314.
Kirjath-jearim, 268 f.
Klostermann, 52, 135.
Kohath; *see* Priests.
König, E., 27, 169.
Korah, 254 f.
Korban; *see* Corban.
Kraetzschmar, 83, 162.
Kuenen, 74, 240.
Kulischer, 85 *n.*
Kyrios; see Appellations.

Lagarde, 135, 245 *n.*
Land laws, 170, 172, 176, 179, 180 ff.; and *see* Hammurabi.
Law of sacrifice, sacred seasons, moral and religious duties, 181 f.; priestly, 184; in Genesis, 219 f.; *see also* Legislation.
Legislation, "pre-Israelite," 8; in Exodus, 8; date of Priestly, 10; historical evolution of, 11; Mosaic authenticity of Pentateuchal, 11; Deuteronomic, 170–193; means of enforcing, 174; absence of central power, 176; regulates private revenge, 176; appeal to religion, 177 and *nn.*; priestly teaching, 184, 191, 282, 283 *n.*; substantive law and procedure in, 185; constitutional, administrative, and laws of war, 182; public and private, 182; oaths and vows, 182; groups of, 180 f.; by courts, 179; appeal to history in, 179 *n.*; jural law, 181 ff., 189 f., 191 f., 306; compared with Code of Hammurabi, 328–333.
Leprosy, laws of, 189, 246, 247, 252 f., 256.
Levites; *see* Priests.
Levitical Cities, 170, 181 and *n.*, 256, 301–304.
Lingnistic evidence, 62, 65, 68 *n.*, 69, 71.
Lot, 78 f.
Lucian, 38, 53, 118, 135, 261 f.

Maccabean Text, 105, 130.
Machpelah, Field of, 84.
McNeile, A. H., 143.
Madsen, 284 *n.*
Maine, Sir H., 308.
Manasseh; *see* Moses.

Manoah, sacrifice by, 259 *n.*
Manu, 313 f., 317.
Manumission of slaves, 174, 186 *n.*
Marriage; *see* Hammurabi.
Massah and Meribah, 69 *n.*
Massoretic Text, 6, 16, 19 f., 23, 29–38, 39–48, 50–61, 90 f., 103–122, 127–134, 138 f., 152–155, 157–168, 234 f., 238, 244, 248 f., 260, 268 f.; history of, 128 f.
Meal-offering, 170, 186 f., 295, 297.
Melek and cognates; *see* King.
Meribah, 69 *n.*
Micah, 273.
Midianites; *see* Joseph.
Midianitish women, 10 f.
Möller, W., 125.
Moloch, 165, 190.
Monotheism, early date of, 7.
Morgan; *see* De Morgan.
"Moriah, land of," 19.
Mosaic age, our knowledge of, 7.
Moses, 169, 171, 200; laws of; *see* Legislation; motives of, 173; limitations under which legislated, 174–179; as orator, 213 f.; stylistic models, 213 ff.; corruption of name of, 249; blessing of, 251; grandson of, *see* Jonathan.
Mountains, God of, 20 f.
Murder, law of; *see* Amnesty, Cain, Homicide.

Naboth, 160.
Nârada, 308 f., 311, 313, 317; and *see* Hammurabi.
Nazirites, law of, 189.
Negeb, 152–156.
Nethinim, 283.
New Testament, quotations from LXX in, 17.
Nicoll, Sir W. R., 94.
Noah, 83 f.
Norden, 214.
Numbers; *see* Criticism.
Numbers, use of round, 23.

Obed-edom, 271.
Occasional commands, 184.
Offenses; *see* Hammurabi.
Old Latin, 37, 155, 157, 166, 233, 244.
Old Testament, Canon of, 128.
Origen, 35, 163, 262.
Orr, J., 12, 28, 66–69, 221.

P, 11, 13, 34–38, 43 f., 59, 69, 70, 73 f., 77, 82 ff., 86, 89, 170 f., 202, 206, 208 ff., 212, 233, 237–242, 252–258, 277 f.
Patria Potestas, 85, 328, 332; and *see* Hammurabi.
Peace-offering, 186, 189, 293 *n.*
Pentateuch, 4 *n.*, 6, 11, 173, 245, 287.
Perizzite; *see* Canaanite.
Plagues, story of, 201.
Poels, H. A., 269 f.
Poll-tax, 299.
Post, A. H., 85 *n.*, 310, 311.
Post on Gaius, 311 f.
Postgate, J. P., 136.
Post-Mosaica, the, of Genesis, 26 ff.
Potiphar, 30 f.
Pre-Mosaica, 5 f., 27, 63 f., 87, 123.
Priests, 190, 244–248, 251–257; in Ex. xix., 230; Zadokite, *see Zadok;* dues payable to, 193 f., 290 ff.; and Levites, 167, 170, 191 f., 231–283; and Levites in P, 233–244, 252–257, 282; in JE, 248–251; in D, 252–257, 282; in Joshua, 257 f.; in Judges, 258 f., 273; in Samuel and Kings, 259–275; in Jeremiah, Haggai, and Malachi, 276; in Ezekiel, 237 f., 241 f., 273, 277–281, 281 *n.*, 282 ff.; in Chronicles, 238 ff., 241 f.; in time of Nehemiah, 283 *n.*; numbers of, 243; Aaronic priesthood practically merged in Levitical, 252 f.; summary, 281–284.
Procedure; *see* Legislation.
Prohibited degrees, 189.
Property; *see* Hammurabi.
"Prophet," 28, 75 f.
Psalter, text of, 130.
Puukko, A. F., 7 f.

Quails, flight of, 10.
Quasi-jurat, 178.

R; *see* Redactor.

Rebekah, 22.
Redactor, 31, 34, 36, 38, 40, 68, 71, 72–76, 258.
Rje, 206 *n.*
Redpath, H. A., 52, 54, 55, 58, 61, 116, 118.
Religious capital, 193, 194.
Repetitions, 182.
Reshith, 294–298.
Reuben, 45, 45 *n.*, 85.
Roman law; *see* Hammurabi.
Rotharis, 312.

Sabbath year, 176, 181 *n.*
Sacrifice, 86 f., 170, 172, 183 f., 186 ff., 191 f., 247 f., 259, 292–297; and *see* Altar, Gideon, Manoah, Solomon.
Sahidic, 169.
Salem, 28.
Samaritan Pentateuch, 39 *n.*, 53, 54, 91, 106, 110 f., 166 *n.*
Samuel, 167 f., 263 ff.
Sanctuary; *see* Altar, Door.
Saq. 42 f.
Sarah, 30, 76, 78.
Saul, 6 *n.*
Sayce, A. H., 314 f.
Schmidt, Aage, 125.
Schlögl, N. J., 14, 53, 54, 91, 96, 98, 106, 113 f., 133, 140 f.
Sea, 26 f.
Sellin, E., 8.
Septuagint, 16 f., 19 f., 23, 24, 27 f., 29–38, 39 *n.*, 40–48, 50–61, 72 f., 79–82, 103–122, 127–134, 138, 152–155, 157–169, 234 f., 244, 249 f., 251 *n.*, 260 ff., 269, 272, 274, 276, 279; and *see* Skinner's "Genesis"; Hebrew corroboration of, variant, 92, 96, 106, 110 f., 157.
Settlement; *see* Hammurabi.
Sexual offenses, 190.
Shaddai; *see* Appellations, in Job.
Silence, arguments from, 170–194.
Sin-offering, 170 f., 188.
Skinner, J., 14, 138–141; edition of Genesis, 49–89, 90–123.
Slaves; *see* Hammurabi, Property, Manumission.
Slaughter, non-sacrificial, 62, 86, 116, 123, 145, 292 f., 293 *n.*
Smith, H. P., 133 f.
Smith, W. R., 105 *n.*, 129, 152.
Sodom, 5, 27.
Solomon, time of, 19, 26; supposed reminiscences of, 167; Temple of, 239, 281; sons of the servants of, 283; sacrifice by, 248; deposes Abiathar, 274, 282; blessing of; *see* Blessing.
Spinoza, 201.
Steuernagel, 4 *n.*
Style, argument from, 5, 67 f., 71–75, 80; in Deuteronomy, 195–224; in Lev. i.–vii., 205 f.; terseness of, in codes memorized, 181, 190.
Substantive law; *see* Legislation.
Succession; *see* Hammurabi.
Sumerian legislation, 307.
Swete, H. B., 20, 50, 58 *n.*, 104.
Symmachus, 160 *n.*, 162 f., 261, 261 *n.*
Syriac, 16, 37, 54 ff., 97, 118, 261, 275 f., 279.
Syro-Hexaplar, 37.

Talion; *see* Hammurabi.
Targums, 16, 53, 111, 269, 275.
Tel el-Amarna tablets, 8, 28.
Tent "a" and "the," 148 f.
Tent of Meeting, 170 f., 193 *n.*, 268.
Terumah, 295.
Tetragrammaton; *see* Appellations, Astruc.
Textual Criticism; *see* Criticism.
Theft; *see* Hammurabi.
Theodotion, 160, 162 f., 261.
Thcos; see Appellations.
Tigris, 64.
Tisdall, W. St. Clair, 124.
Tithe, 294, 296 ff.
Toy, C. H., 9, 61, 105 *n.*, 132 ff.
Transpositions, 15.
Tribal System, 11.
Troelstra, A., 125 *n.*, 230.

Uzzah, 270.

Van Hoonacker, 269 f., 282 *n.*, 301, 305.
Variants; *see* Criticism.
Vatican MS., 169.

Versions, ancient, 6, 16, 50, 53, 66, 105 *n.*, 117, 132 f., 135, 235, 268; *see also* Old Latin, Septuagint, Syriac, Syro-Hexaplar, Targums, Vulgate, Aquila, Symmachus, Theodotion, Bohairic, Sahidic, Ethiopic, Armenian.
Vetter, 57 *n.*
Vulgate, 17, 31 *n.*, 32, 33 *n.*, 34 *n.*, 35 ff., 39 *n.*, 41, 69 *n.*, 81 f., 105 *n.*, 130, 233, 244, 245, 251 *n.*, 275 f., 279.

Wave-offering, 295, 297.
Weeks; *see* Feast.
Weiss, J., 152.
Wellhausen, J., 4, 70, 144, 230; School of, 7, 13, 14, 116 f., 119 f., 123, 145, 225; Prolegomena of, 8; fourth chapter of, 231–289; fifth chapter of, 290–305.
West; *see* Sea.
Witchcraft, 190.
"Word," 218–222.
Wright, G. Frederick, 88.
Writing, 84, 175, 336.

Zabud, 262.
Zadok, Sons of Zadok, 260, 265, 271–275, 278 ff., 282 f.
Zeboiim, 5, 27.

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